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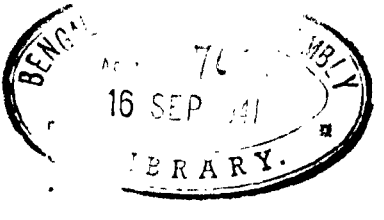

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 19th March, 1941, at 2-15 p.m., being the fourteenth day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Questions which remained outstanding from previous Session and Answers thereto.

Grant-in-aid to Girls' Section of the Ashutosh College.

75. Khan Sahib ABDUL HAMID CHOWDHURY: (*a*) With reference to the answer given by the Hon'ble the Chief Minister to the supplementary question put by Mr. Lalit Chandra Das to question No. 95 on the 9th September 1940, will he be pleased to state whether any further investigation has been made as promised by him therein?

(*b*) If so, will the Hon'ble the Chief Minister be pleased to state the result of investigation as promised by him into the matter and inform the House about his decision in the matter?

(*c*) Will the Hon'ble the Chief Minister be pleased to state whether the College authorities did produce evidence about the compliance with the requirements laid down by the Government Order sanctioning the grant-in-aid to the girls' section of the Ashutosh College since the question was last put?

(*d*) If so, will the Hon'ble the Chief Minister be pleased to state whether he reconsidered the question as promised by him in reply to the said supplementary question and will he be pleased to state what is his decision on such reconsideration?

(*e*) Is it a fact that the College authorities produced evidence before the Secretariat Education Department officers showing that the requirements laid down by the Government were fully complied with, and if so, will he be pleased to state whether he has reconsidered the question of the grant-in-aid to the girls' section of the Ashutosh College and whether Government proposed to renew the said grant to the said College; if not, why not?

MINISTER in charge of the EDUCATION DEPARTMENT (the Hon'ble Mr. A. K. Fazlul Huq): The matter is under consideration.

Khan Sahib ABDUL HAMID CHOWDHURY: Will the Hon'ble Minister be pleased to state if it is a fact that renewal of the grant was stopped for non-compliance with the terms on which it was granted?

The Hon'ble Mr. A. K. FAZLUL HUQ: Yes, Sir, that is so.

Khan Sahib ABDUL HAMID CHOWDHURY: Will the Hon'ble Minister be pleased to state if it is a fact that the college authorities have since produced evidence of compliance with the terms on which the grant was sanctioned?

The Hon'ble Mr. A. K. FAZLUL HUQ: It is not merely a question of supplying evidence. There have been discussions on the subject between the authorities of the educational institution concerned and the officers of the Education Department, and the discussion is still going on.

Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister be pleased to state why so much time is being taken for settling the matter finally.

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, various points have been raised and various documents have got to be examined. As a matter of fact, some of the suggestions made by Government were of such a character as would involve financial liability on the college and they took some time. That is the reason; otherwise there is no reason.

Khan Sahib ABDUL HAMID CHOWDHURY: Do all Government grants lapse at the end of the financial year, if not disbursed within the year?

The Hon'ble Mr. A. K. FAZLUL HUQ: There will be no difficulty in this case, because if the grant is made, there will be money sufficient to compensate the college for its loss.

Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister be pleased to state when it is likely to be decided finally?

The Hon'ble Mr. A. K. FAZLUL HUQ: We will try to expedite. It may be within a month.

Khan Sahib ABDUL HAMID CHOWDHURY: Is the Hon'ble Minister aware that owing to stoppage of this grant many activities of the Girls' Section of the College had to be postponed or abandoned, thereby affecting the education of the girls?

The Hon'ble Mr. A. K. FAZLUL HUQ: No, Sir, I do not think that is correct.

Schools at Noakhali.

76. Khan Sahib ABDUL HAMID CHOWDHURY: Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) if owing to the submerging of a considerable part of the town of Noakhali by river all schools of the headquarters have been closed;

(*b*) whether Government are aware that the people of the locality are finding great difficulties in sending their children to schools; and

(*c*) how many schools are there now existing in the present headquarters and how many there were in the headquarters before the erosion of the river washed away a considerable part of the town?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) No. Only the Guru Training School has been removed to Sonaimuri.

(*b*) There is some difficulty during the rains in sending children to school.

(*c*) Number of schools now existing in the present headquarters of Noakhali—10.

Number of schools before the erosion of the river—10.

Syllabus for primary schools.

40. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) whether the new syllabus for primary schools drawn up by Government has been introduced in the primary schools of Mymensingh district and whether the arrangement for the teaching of Quoran daily in free primary schools as laid down in the syllabus has been made;

(*b*) whether the Government is aware that 95 per cent. of the pupils of free primary schools come from the cultivating class;

(*c*) whether the Government has realised the fact that the pupils of cultivating class coming out of primary schools will relapse to illiteracy again in 4 or 5 years unless special effort is made to maintain their literacy; and

(*d*) what action, if any, does the Government propose to take for making sure that the vast majority of the pupils of primary schools do not relapse to illiteracy and the money spent on their education is not wasted?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) Yes: according to the new curriculum the subject—Religious Instruction for Muslims—is to be taught for 4 periods (2 hours) per week in each class. An attempt is made to finish the reading (Nazera) of the Quoran in class IV (the final class). Muslim teachers under training in Primary Training Schools are being trained in the subject of Religious Instruction.

(*b*) Yes.

(*c*) and (*d*) The questions are under the consideration of the Committee on Primary and Adult Education, whose report on Adult Education is likely to be submitted shortly.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that most of the teachers of the present primary schools are incapable of teaching the Nazerana reading of the Quoran?

The Hon'ble Mr. A. K. FAZLUL HUQ: I do not know.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister please enquire into the matter?

The Hon'ble Mr. A. K. FAZLUL HUQ: Yes.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister please arrange for the training of such teachers in the Nazerana reading of the Quoran?

The Hon'ble Mr. A. K. FAZLUL HUQ: Yes.

Distress in certain parts of Midnapore.

77. Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(*a*) if he is aware that there is distress in the major portion of the Contai subdivision, and portion of Tamluk and Sadar subdivisions on account of flood and consequent failure of crop;

(*b*) what steps the Government have taken up to this time to relieve the distress; and

(*c*) if he is aware whether several applications have been submitted to the Collector, Midnapore, by the landlords of the flood-affected areas requesting permission to pay the Revenue *kists* of the last two quarters of 1940-41, and the first two *kists* of 1941-42, by reasonable instalments along with *kists* subsequent to the period mentioned above, if so, what have been the orders of the Government thereon?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) There was some amount of distress in parts of Contai, Tamluk and Sadar subdivisions of the district but at present there is no report of distress anywhere in the district.

(*b*) A sum of Rs.1,32,500 has been distributed as agricultural loans, 7,181 maunds of rice and Rs.588 in cash have also been distributed as gratuitous relief.

(*c*) Ten petitions have been received by the Collector. They are under examination.

Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister be pleased to state when will the orders be passed?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the matter has been sent to the Collector, and I can assure my honourable friend that the matter will be treated sympathetically.

Rai Bahadur MANMATHA NATH BOSE: Is the Hon'ble Minister aware that on the 25th March plenty of estates will be brought to sale if no consideration is shown to the owners of these estates?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I can assure my honourable friend that no estate will be sold.

Imprisonment for negligent driving.

51. Khan Sahib ABDUL HAMID CHOWDHURY (on behalf of Mr. Birendra Kishore Roy Choudhury): (*a*) Will the Hon'ble Minister in charge of the Judicial Department be pleased to state if the Chief Presidency Magistrate of Calcutta has sentenced an unlicensed person named Abbas to one year's imprisonment and a fine of Rs.250 for negligently driving a motor car and thereby causing the death of a person named Nanda Kishore and causing hurt to some others?

(*b*) Has the same Magistrate sentenced Abdul Gunny, the licensed driver of the car, to a fine of Rs.40 for allowing Abbas to use the car?

(*c*) Will the Government appeal to the higher Court against the sentences of the lower Court?

(*d*) Will the Hon'ble Minister in this connection enlighten the Council as to the name of the owner of the car?

MINISTER in charge of the JUDICIAL DEPARTMENT (the Hon'ble Nawab Musharruff Hossain, Khan Bahadur): (*a*) The answer is in the affirmative except that the substantive sentence of imprisonment was one month and not one year.

(*b*) Yes. The Magistrate also imposed disqualification for two months.

(*c*) No.

(*d*) Khan Sahib Syed A. E. B. Murshedi.

Failure of paddy crop in North Bengal.

53. Mr. NAGENDRA NARAYAN RAY: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state whether the Government are aware that the last *aman* paddy crop has, more or less, failed in all the districts of North Bengal?

(*b*) If the answer to paragraph (*a*) be in the affirmative, will the Hon'ble Minister be pleased to state—

(*i*) what proportion of the crop has been lost in each district of North Bengal;

(*ii*) whether it is a fact that in the district of Rangpur there has been the largest failure of the last *aman* paddy crop and that a widespread distress has already begun in this district; and

(*iii*) what steps, if any, the Government have taken or propose to take for relieving the distress of the poor people in each of the districts of North Bengal?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) In the high lands of the district of Rajshahi and in the districts of Malda, Rangpur, Dinajpur and Pabna the *aman* paddy crop has failed partially. In the district of Darjeeling *aman* paddy crop is not grown and in the other districts of North Bengal there has been no failure.

		Per cent.
(*b*) (*i*) Rajshahi	...	... 40
Malda	...	... 50
Rangpur	...	... 16
Dinajpur	...	... 43
Pabna	...	... 33

(*ii*) No.

(*iii*) *Rajshahi.*—An economic survey has just been completed in this district for ascertaining the extent of relief that may have to be given to the affected people. Arrangements will be made for distribution of agricultural loans and for starting test works and other relief measures as and when necessary. The Agricultural Department has opened *aus* paddy seed stores at convenient centres in the Naogaon subdivision and short-term crop loans will also be distributed in the affected area.

Malda.—Arrangements are being made for re-excavation of derelict irrigation tanks under the Bengal Tanks Improvement Act, 1939. A sum of Rs.3,500 has been sanctioned for distribution as land improvement loans for excavation of tanks and erection of *bunds* and a sum of Rs.13,000 has also been allotted for distribution as agricultural loans.

Rangpur.—Arrangements have been made for large scale distribution of short-term loans through co-operative societies and the Agriculture Department have arranged for the supply of paddy seeds at cost price throughout the district. The local officers are also collecting information as to the extent of relief that may be necessary.

Dinajpur.—The local officers are making detailed enquiries to ascertain the extent of relief that may be necessary. Arrangements are being made for distribution of—

(*a*) agricultural loans; and

(*b*) short-term loans through the co-operative societies.

Pabna.—A sum of Rs.10,000 has been sanctioned for distribution as short-term agricultural loans.

Appointment of the Government Pleader of Chittagong.

55. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Judicial Department be pleased to state the total number of legal practitioners practising in the Sadar and the mufassil courts of Chittagong, and of them, how many are Moslems?

(*b*) Is it a fact that the Government Pleader of Chittagong will be appointed very soon? If so, do the Government propose to appoint a suitable pleader this time? If not, why not?

(*c*) What are the total number of clerks of all grades and ranks now serving in various Civil Courts of Chittagong, and of them, how many are Moslems and how many are non-Moslems and how many of these Moslems are in lower grade and how many of them are in higher grade?

(*d*) Is it a fact that no Moslem has been appointed as *sheristadar* of the Chittagong District Court for many years? If so, why?

(*e*) Do the Government propose to appoint a Moslem in this post at the next opportunity? If not, why not?

(*f*) What is the total number of pleaders acting as Government Pleaders and Public Prosecutors in various Civil and Criminal Courts of the Chittagong mufassal area? Of them, how many are Moslems and how many are non-Moslems?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: (*a*) Total number of pleaders—397.

Number of Muslim pleaders—84.

Total number of muktears—122.

Number of Muslim muktears—33.

(*b*) The matter is under consideration of Government.

(*c*) Total number of clerks—140 (26 in upper grade and 114 in lower grade).

Total number of Muslim clerks—58.

Total number of non-Muslim clerks—82.

Total number of Muslim clerks in lower grade—50.

Total number of Muslim clerks in upper grade—8.

(*d*) Yes; because there was no suitable Muslim officer.

(*e*) The question does not arise till there is a vacancy and there is no likelihood of a vacancy in this district in the near future.

(*f*) The total number is at present 6—the post of the Government Pleader at Fatikcheri being vacant. Of these 3 are Muslims and 3 are non-Muslims.

Purchase of jute by the mill-owners.

57. Mr. BIRENDRA KISHORE ROY CHOWDHURY: Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state—

(*a*) how many bales of jute were to be purchased by the mills according to the agreement of Delhi;

(*b*) how many bales of jute have actually been purchased by the mills according to the said agreement up till now; and

(*c*) to what extent the Government has made good the deficit, if any?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) 37½ lakhs bales as per following programme:—

By 15th January—15 lakhs bales.

By 15th February—25 lakhs bales.

By 15th March—32½ lakhs bales.

By 15th April—37½ lakhs bales.

(*b*) 22 lakhs bales up to 15th February, 1941.

(*c*) Government have not made good the deficit but the question is at present under their consideration.

(After Questions were over.)

Khan Bahadur ATAUR RAHMAN: May I know, Sir, as to when the postponed questions will be taken up, so that we may be ready with our papers for putting supplementary questions? Otherwise, as happened to-day, questions will be answered, though we shall not be prepared to put supplementary questions.

Mr. PRESIDENT: I have been informed that the Hon'ble Nuwab Bahadur of Dacca is absent from Calcutta on an important business of the State. As soon as he comes back, these questions will be taken up.

Alhadj Khan Bahadur MUHMAMMAD JAN: When is the Nawab Bahadur of Dacca expected to return, Sir?

Mr. PRESIDENT: That is not known to the Chair.

Alhadj Khan Bahadur MUHAMMAD JAN: Then, Sir, the position remains the same, and we shall not know when the questions will be taken up.

Mr. PRESIDENT: Honourable members will be informed when these postponed questions will be replied to.

Obituary Reference.

Mr. PRESIDENT: Honourable members of the Council, before the business of the day is taken up, I desire to refer to the sad demise of Sir Shah Muhammad Sulaiman, which took place at New Delhi on the 12th March last. Descended from a highly cultured Muslim family which had produced a long line of erudite Arabian and Persian scholars, Sir Sulaiman gave early promise of his future brilliance. He had an astonishingly vigorous and versatile mind. It is not necessary for me to dilate upon his achievements, which are well known. They included a Doctorate in Law before he was 25, a High Court Judgeship before he was 35, a permanent Chief Justiceship before he was 45, the first and the youngest Indian to hold such

a post, a Presidentship of the National Academy of Science, the Vice-Chancellorship of the Aligarh University and the elevation to the Federal Bench. After being called to the Bar from the Middle Temple in 1910, he returned to India and set up practice at Allahabad. The success attained by him at the Bar was phenomenal, so much so that within nine years of starting practice he was invited to the Bench. Sir Sulaiman's reputation as an eminent jurist soon spread far and wide and led to his appointment as a member of the Capitation Tribunal which was set up to determine the respective liability of Great Britain and India in respect of Indian defence. The manner in which he discharged this most onerous duty bore testimony to his independent outlook as well as juristic detachment. In spite of absorption in his judicial duties which were exacting enough, Sir Sulaiman had never lost interest in his studies on the sciences. He made notable contributions as a mathematician and physicist which attracted the attention of the scientific world. To him goes the credit of propounding a new process of mathematical calculations, which challenged the prevailing concepts of Einstein's Theory of Relativity.

Sir Sulaiman's activities as an educationist were also no less remarkable. His academic addresses would always give expression to his wide outlook on life and robust optimism about the ultimate destiny of the Indian nation. The sudden death, at the comparatively early age of 55, of such an outstanding personality is indeed a national calamity, and India is distinctly the poorer to-day by his death.

May his soul rest in peace!

As a mark of respect to the memory of the illustrious deceased, I would request the honourable members to rise in their places.

(Honourable members rose in their seats.)

Thank you, gentlemen. It will be my duty to convey the deep and sincere condolences of the House to Lady Sulaiman and the family in their great bereavement.

Motions for Adjournment.

Mr. PRESIDENT: I have received two notices of motions for adjournment. The first is from Mr. Lalit Chandra Das which runs as follows:—

That this Council do adjourn its business to discuss a definite matter of urgent public importance, namely, the situation which has arisen out of a very serious communal riot being a sequal to spearing of a Namasudra tiller by Muslims resulting in murder, arson and loot in which even women were not also spared with over 200 casualties

and 167 Namasudra houses being gutted on the 14th March last in village Gangchor, police-station Mollahat in the subdivision of Bagerhat, Khulna, making the atmosphere of the whole district and the neighbouring district surcharged with excitement with the possibilities of further outrages, a situation which the Superintendent of Police of Khulna and the Collector with armed police have as yet failed to pacify.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, we object to this adjournment motion being taken up. I doubt whether there is the statutory number of supporters behind the motion.

Mr. PRESIDENT: Under our rules, if objection is taken, the Chair is to request those members who support the motion to rise in their places. So, those members who support this motion will please rise in their places.

Mr. NARESH NATH MOOKERJI: Sir, may I most respectfully point out that the object of this motion is really to elicit information from the Government as to the actual situation.

Mr. PRESIDENT: Though the first hour of every meeting is available for the asking and answering of questions, it is not to be concluded that no other work should be taken up, even if there are not sufficient questions to occupy the whole hour. But so far as the other point about the motion for adjournment is concerned, the Chair cannot compel the Government to make any statement unless in their discretion they choose to do so. The duty of the Chair is to see that the motion is in order and to enquire if there is any objection to the motion. If any objection is taken, the Chair is to ascertain whether the motion has the support of not less than 13 members. So, those members who are for the motion will please rise in their places.

(After the members who were in favour of the motion being taken up had risen.)

As less than 13 members have risen, the honourable member is informed that he has not the leave of the House to move the motion.

Mr. BANKIM CHANDRA DATTA: May I make one submission in this connection? It is to register our protest against the attitude of Government that we came here to-day——

Mr. PRESIDENT: Please wait. There is a further motion for adjournment from Mr. Kanai Lal Goswami which runs thus:—

That this Council do adjourn its business to discuss a definite matter of urgent public importance, namely, the situation which has

arisen out of a very serious communal clash in the city of Dacca which starting on the 17th March, Sunday, was till yesterday proceeding, resulting in three killed and several wounded there, the usual business in the city having been brought to a standstill—a situation which the local authorities have so far failed to pacify.

I would like to point out to the honourable member that the outbreak of riots may not necessarily be a sufficient ground for moving a motion for adjournment. Of course, there are cases where an outbreak of riot on a very large scale has been considered to be a good ground for a motion for adjournment.

I remember that the outbreak of communal riot at Rangoon was the occasion for a motion for adjournment in the Central Assembly when the Government did not raise any objection to the discussion of such a motion. It is for the Government to decide whether they will raise any objection in this particular case. Is it necessary for me to repeat that in case of any objection, the motion can be discussed only if it is supported at least by 13 members of the House?

Mr. KANAI LAL GOSWAMI: It is the duty of every Government to see that the normal avocations of peaceful citizens are conducted in the usual manner and, therefore, it is equally their duty to prevent serious outbreaks of violence of law. If they fail to do that, they would be failing in their duty and, in that view of the matter, Sir, I submit it is a fit case for adjournment. Besides, the Government have failed as yet to pacify the situation. In the absence of any other reports except what we saw in to-day's papers, we are in the dark entirely as to the state of affairs prevailing there and, therefore, naturally we are anxious to hear from Government what steps have been taken or what is the present situation like.

Mr. HUMAYUN KABIR: In this connection, may I be permitted to say, Sir, that you have established in this House a convention that in certain circumstances we may call for order papers. It is, of course, for the Government to decide whether they will offer an answer to the discussion or make a statement in such a situation or not. This adjournment motion only wants to draw attention to the very serious situation which has been created in the city of Dacca. I think, on that particular point, there will be no difference of opinion from any side of the House, nor does this particular motion apportion any blame. There is no attempt either to prejudice or judge beforehand the issues. It only wants information by drawing the attention of the Government and of the House to the serious situation which has been created, and I think that if the Government would make a statement on the situation at Dacca as to whether the situation had been brought under control or

not; if not, what steps Government intend to take to bring it under control immediately, the purpose of the adjournment motion will have very largely been met. You yourself, Sir, have directed more than once that in matters of urgent public importance, the Government should make a statement clearing the situation. In very many cases, the grounds or reasons for an adjournment motion might then disappear. Therefore, I think Government owe a duty to themselves and to the people of Bengal to make a statement in an authoritative manner on the floor of the House over such an important question and I request, Sir, that Government should look at the matter in that light.

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, in order to prevent the Government position being misunderstood, I wish to make a short statement. Sir, I submit to this House that it would be impolitic and unwise to discuss the actualities of the situation which, even according to the honourable member who has tabled this motion, has not yet been brought under control. I may tell the House that this communal riot—this communal fracas—I am afraid, broke out rather suddenly and the local authorities there are doing their best to restore the normal condition, and I submit that in these circumstances the discussion that may take place here may have an unwholesome effect on the people who are fighting and disturbing the peace. So far as the honourable members of this House are concerned, they cannot discuss the situation because they have not got the full facts in their possession; they must be talking on rumours. So far as the Government is concerned, we are receiving all the information that is being collected and even now we have not got the full information on the point. I, therefore, submit that this motion should not be discussed, nor any speeches made in this House which may adversely affect the situation. At the present moment, all we can say is that we are not in possession of the full information and it is extremely likely that these matters will form the subject-matter of proceedings in courts. Therefore, from this point of view also, I may submit that further discussion would not be admissible.

Mr. PRESIDENT: After the statement made by the Hon'ble the Premier that it will not be in the public interest to discuss the matter, does the honourable member press his motion further?

Mr. KANAI LAL GOSWAMI: Sir, is the matter postponed till the information is available, or dropped for ever?

Mr. PRESIDENT: The discussion cannot be postponed. As a matter of fact, on the second objection raised by the Hon'ble Mr. A. K.

Fazlul Huq, there is no reason why the Chair cannot hold the motion to be in order. The argument that out of a riot there may crop up proceedings in Courts later on will not be accepted by the Chair as a valid reason for disallowing the motion on the ground of "*sub-judice*".

But I may point out that the Hon'ble Minister has definitely stated that any discussion in the House at this stage will not be in the public interest. When the responsible head of the Government considers such a discussion prejudicial to the public interest, I hope that Mr. Goswami will not press his motion for adjournment.

Mr. NARESH NATH MOOKERJI: Sir, may we take it that when further information is available, Government will be pleased to lay it on the Table? This motion was after all meant to elicit information in the form of an adjournment motion.

Mr. PRESIDENT: That purpose can be served by tabling a short-notice question on the subject, and I am sure the Hon'ble Chief Minister will have no objection to such a procedure.

The Hon'ble Mr. A. K. FAZLUL HUQ: Yes, Sir, the information will be supplied when available and if asked for.

Mr. BANKIM CHANDRA DATTA: May we have your permission to leave the Chamber? We would like to make it clear, Sir, that in doing so, we mean no discourtesy to the Chair.

Mr. PRESIDENT: It is not necessary for any honourable member or any Party to obtain a formal permission from the Chair before withdrawing from the House.

Message from the Legislative Assembly.

SECRETARY to the COUNCIL (Dr. S. K. D. Gupta): Sir, I have received the following message from the Legislative Assembly, signed by Mr. Speaker:—

"The Bengal Land Revenue Sales (Amendment) Bill, 1941, as passed by the Legislative Assembly at its meeting held on the 28th February, 1941, has been duly signed by me and is annexed herewith. The concurrence of the Bengal Legislative Council to the Bill is hereby requested."

M. AZIZUL HAQUE,
Speaker.

Sir, I lay the Bengal Land Revenue Sales (Amendment) Bill, 1941, on the Table.

Supplementary Estimate of Expenditure.

Mr. PRESIDENT: Hon'ble Mr. Suhrawardy.

The Hon'ble Mr. H. S. SUHRAWARDY: The Hon'ble the Chief Minister will move the motion, Sir.

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, I beg to present a supplementary estimate of expenditure. As is stated in the explanatory memorandum at the foot of the supplementary estimate, this demand of one rupee is made for the purpose of obtaining the assent of the Legislature to the payment of a contribution of one lakh of rupees to the Calcutta Mayor's Fund for the relief of London Air Raid victims. The head of account to which the proposed expenditure is debitable is "57—Miscellaneous" and as members may remember considerable savings are expected under this head in the current year. Although, therefore, no additional appropriation is required, Government, appreciating that the charge is of a novel nature, have thought it proper that the Legislature should be given an opportunity of discussing the proposal.

The reasons that have led the Mayor of Calcutta to open a Fund for the relief of London Air Raid victims are well known to honourable members of this House, and I should like to assume that regarding the merits of the proposed contribution there will be no differences of opinion. I propose, therefore, to confine my remarks to the constitutional aspect of the proposed expenditure. It is the considered opinion of this Government that the expenditure that we have in view is permissible under sub-section (*1*) of section 150 of the Government of India Act, 1935. A final and conclusive interpretation of this section could only be given by the Federal Court or on appeal by the Judicial Committee of the Privy Council; but until occasion arises for these Courts to make a relevant pronouncement, action has in any particular case to be taken on the basis of the best view that can be formed by the executive authorities as to the correct interpretation of the said sub-section. I could, I think, if necessary, argue that the proposed contribution is one from which this province may expect to derive material benefit, but Government are advised that the words "purposes of India" in section 150 (*1*) of the Act should be construed as including any activity the pursuit of which is in the country's interests. Such interests need not necessarily be in the nature of specific and measurable benefit and would include among other things broad considerations of the reputation and dignity of India and of her place in the comity of nations. And, so, this afternoon I would prefer to lay our proposal before this House as one well worthy of its approval, not because like bread cast on the waters it may return

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after many days, but because in sanctioning this payment Bengal will pay her tribute to the courage and fortitude with which the people of London are facing their terrible ordeal and will thereby range herself on the side of those nations which appose aggression and violence as an instrument of policy.

The Bengal Local Self-Government (Amendment) Bill, 1941.

Mr. PRESIDENT: The House will now take up the Bengal Local Self-Government (Amendment) Bill, 1941.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Bengal Local Self-Government (Amendment) Bill, 1941, be taken into consideration.

Sir, a copy of the Bill has been circulated among the members, and the Statement of Object and Reasons very clearly states why this short Bill is proposed to be introduced. There have been civil suits by which the constitution of the district boards are being delayed. In fact, practically in all other local bodies, including the Calcutta Corporation and the municipalities in Bengal, and even in union boards, election disputes are decided by a Special Tribunal. Now, Sir, only in the case of Local Self-Government Act, there is no such provision. Although section 18(*b*) of the Act authorises Government to appoint a special authority, it nowhere specifically provides that no suit shall lie in a Civil Court. That is why Government now propose to incorporate in the Act itself this provision as it stands in the Bengal Municipal Act. I do not think I need dilate any further on the subject. It is a very useful and practical measure to which, I hope, the House will agree.

Mr. PRESIDENT: Motion moved: that the Bengal Local Self-Government (Amendment) Bill, 1941, be taken into consideration.

Mr. HUMAYUN KABIR: I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 30th September, 1941.

In moving this Bill for circulation, I think I can adduce arguments which are often advanced by the honourable mover of this Bill in connection with non-official Bills. He is never tired of telling us that he would not undertake any legislation without first being satisfied with regard to public opinion on the particular issue involved in the Bill. He is so particular about the opinion of the public on measures moved by private members of this House that he is not content with sending them for circulation once or twice, but he must send them for the third time and even more. And to-day we are told that we must take this Bill into consideration on the floor of the House without

any previous notification and without any consultation of public opinion on the provisions of the Bill.

This is a Bill which I am sure cannot be passed quite so easily as the honourable mover has tried to suggest. He has told us that this Bill only wants to substitute appeal to a tribunal appointed under the Act in place of an appeal to a Civil Court, for the rectification of any irregularities that might occur at the time of election to local bodies. He claims that this will only bring local bodies into line with the Calcutta Corporation and the municipalities of Bengal. I would ask the Hon'ble Minister to look at his own Bill and say whether there are not certain clauses in it which go very much further than what has been said by the Hon'ble Minister. Is it not a fact that it is proposed to change the principle under which the election of members is declared void; is it not a fact that he even wants to change some of the standing provisions with regard to voidance of any election which may take place under the old Act? I will not go into details of any particular clause. But there are three important principles in the Bill presented by the Hon'ble Minister——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I just request the honourable member kindly to refer definitely to the clauses of the Bill in which he finds this diversion.

Mr. HUMAYUN KABIR: Sir, I have not got a copy of the Bill in front of me; otherwise I would have indicated them. But there are certain clauses which deal with conditions under which the election can be set aside that I have in mind.

As I was saying a moment ago when the Hon'ble Leader of the House interrupted me, there are three important principles in this Bill. First, he has himself mentioned the question of the procedure which ought to be followed in election contests. Here there is not much to which we object. But there are two other provisions which are equally important. In section 18D, which is clause 3 of the proposed Bill, is laid down the conditions under which the election of a candidate can be declared void and in sub-clause (2) of the same clause certain other provisions are made which, I think, are almost revolutionary in their character. In this sub-clause, namely, 18D(2), the Bill seeks to provide that in certain cases, if corrupt practices have taken place in a particular election and if such corrupt practices are proved and if these are not done by the candidate himself or by his authorised election agent, that shall be no ground for the setting aside of the election. I think, Sir, this is going very far indeed. There is nowhere any provision in any other sphere that even if the election is materially affected by such irregularity, the election should not be set aside, simply because the candidate comes and says, "I did not authorise a particular agent to act on my behalf in this illegal

manner." I do not think, Sir, there is any candidate anywhere who would come forward and admit that he did instruct his election agent or other agents to act in an illegal manner. If it could be proved that the man was guilty or that the selected agent was guilty, not only would the election be set aside, but over and above that that candidate might be debarred from seeking election again. There is a penalty clause in such cases where the candidate is guilty of any corrupt practice.

Now, Sir, the Hon'ble Sir Bijoy tells us that in the proposed Bill he is not going to introduce any change in the procedure of the local bodies in Bengal. But, Sir, we find a revolutionary change, a proposal that even if such irregularities are committed and even if such irregularities materially affect the results of the election, still the candidate can get away simply by protesting that he did not authorise his election agent or any of his other agents to behave in this manner. We all know that sometimes it is very difficult even with very good evidence, to prove that the election agent has been authorised by the candidate to act in an illegal manner, and here it seems that such illegal practices will be given almost a premium by the sub-clause which is sought to be inserted in the proposed section 18D of the Bill. Therefore, Sir, I do not know if Sir Bijoy has read the Bill carefully or he had simply moved the motion that the Bill be taken into consideration, because the office had asked him to do that. I think he will notice that there are these two points which are so important and not so simple as might seem at first sight and as Sir Bijoy has tried to persuade this House to believe.

Therefore, Sir, this Bill should be circulated; it touches on a very important matter.

Then, even with regard to the point which Sir Bijoy has himself admitted, that he wants to change the form of the election tribunal which might be necessary for setting aside the elections which are illegal, it is a doubtful question whether the present system is not a better one than the one which Sir Bijoy wants to introduce.

With regard to the arguments which are advanced in the Statement of Objects and Reasons that he wants to introduce these changes in order to expedite the working of the local bodies and to prevent any unnecessary delay in the formation of such bodies soon after election, may I ask Sir Bijoy why is it that the Government refuse to constitute local bodies even after the election, for years together? Because of the refusal to make the necessary nominations, in very many cases although elections have taken place in the year 1937, the body could be formed only in the year 1939. I know of one particular case where elections took place in the early part of 1936, but till the end of 1937 the body could not be constituted because the nominations were not

made. This sudden interest in quickening the activities of the local bodies which Sir Bijoy now professes, must, I think, require, further explanation. The Government itself delays and it is continually delaying and from the reports which on another occasion I had an opportunity of reading before the House, I showed to the House that the District Officers themselves were in very many cases disturbed exceedingly by this sort of procedure which the Ministers follow in the matter of nominations. I think, Sir Bijoy will have to give some more satisfactory arguments to convince the House as to why the Government are more anxious that the local bodies should be constituted as soon as the elections are over. Thus, there are three very important points in the present Bill, and we must be satisfied on these before this Bill can be taken up for consideration straightaway.

Mr. PRESIDENT: Amendment moved: that the Bill be circulated for the purpose of eliciting opinion thereon by the 30th September, 1941.

Khan Sahib ABDUL HAMID CHOWDHURY: Mr. President, Sir, in spite of my best regard for the honourable mover of this amendment, I feel exceedingly sorry that I have got to offer my opposition to it. Sir, I have heard with rapt attention the speech of my esteemed friend in support of his amendment, and I have tried my utmost to understand his viewpoints which were stated with his usual eloquence, but I am yet to be convinced that he has succeeded in making out a good case for circulation of the Bill. Sir, the Bill under consideration is a very short and simple one and does neither contain such controversial matters, nor seeks to introduce any drastic change of such far-reaching character in the provisions of the existing Act as would necessitate guidance of the outside public in arriving at a decision on the main principle underlying the Bill. On the other hand, Sir, the Bill provides for redress of such a long-felt inconvenience due to the present dilatory and expensive litigation that there is no room for entertainment of any proposition calculated to delay its passage even for a short time. Sir, the main principle underlying this piece of legislation is to set up a new machinery for deciding election disputes to the exclusion of the ordinary Civil Court proceedings, or in other words the main point, or I may say the only point raised by this Bill for determination is whether we shall continue suffering under the present system of decision of election disputes by means of tedious and costly litigations or we shall adopt speedy and less costly way of disposal of such questions. Sir, I know of instances of rich people losing election and then in a spirit of revenge pursuing their poor but successful rivals in litigations for years together to his great harassment. I know of cases of sitting members or executives of local or district boards indulging in litigations after their disappointment in the

election, with the ulterior object of prolongation of their term of office. Sir, I have personal experience of Court's issuing injunction in rather a light-hearted manner prohibiting members formally elected or appointed from entering upon their duties. It is with a view to put an end to this unhappy state of affairs in the realm of self-government that necessity for a Bill like the one under consideration has been felt. Now, are we to understand that a learned scholar of Professor Kabir's position should feel least difficulty in pronouncing his verdict on this simple question without reference to the general public?

Sir, the Bill under consideration does not enunciate any new policy, nor professes any new principle, nor embodies any novel procedure. It rather seeks to bring the Bengal Local Self-Government Act of 1885 in line with other Acts of later time governing other self-governing institutions, viz., union boards and municipalities. On a careful comparison of the new sections 18B to 18H under clause 3 of the Bill with the present section 18B of the Bengal Local Self-Government Act of 1885, sections 36 to 39B and 43 of the Bengal Municipal Act of 1932, sections 46 and 47 of the Calcutta Municipal Act of 1923, and sections 17A and 17B of the Bengal Village Self-Government Act of 1919, the subject-matter of the Amending Bill is found to be nothing more or less than verbatim reproduction of the above sections with very slight changes here and there in the arrangement of those sections. The whole thing has been reproduced in such a way that the author of the Bill, I am afraid, stands charged with plagiarism.

I think, Sir, I have fully explained that the Bill under consideration does not contain any complicated or controversial matter justifying its circulation for eliciting public opinion thereon. On the contrary, Sir, I am deliberately of opinion that if we decide on any measure calculated to delay the passage of such a useful Bill, we shall make ourselves liable for condemnation at the bar of public opinion. With these few words, Sir, I oppose the amendment for circulation and support the motion for consideration of the Bill. Before I resume my seat, I would venture to take the liberty of requesting my esteemed friend, Professor Kabir, to withdraw his ill-conceived amendment, or at least not to press it.

Mr. NUR AHMED: Mr. President, Sir, I am sorry I must oppose the motion for circulation moved by my learned friend Professor Humayun Kabir. Sir, he was not able to convince me with his arguments, and I am of opinion that he has moved his motion without going through the Bill. This Bill has been brought forward in order to remove a lacuna found in the working of the Local Self-Government Act. And I think the reasons which have led to its introduction are what have recently happened in Chittagong, where as many as 12 or 15 election petitions were filed and are still pending. But afterwards it was found

that in the Act there was provision for the appointment of a Special Tribunal. But no Tribunal was actually appointed, and these petitions could not be properly heard for want of a Tribunal and that is why Government have introduced this Bill. This procedure which it is proposed to provide in this Bill is not new. As has been stated by the Hon'ble Deputy President, this is almost a verbatim replica of the Bengal Municipal Act, 1932. These provisions have merely been copied with some changes just to apply them in peculiar circumstances of the case. But from a comparison of the provisions of this Bill with those of the Bengal Municipal Act, it will be found that there has been some relaxation towards leniency. If my learned friend Mr. Humayun Kabir reads the Local Self-Government Act of any other province, he will find similar provisions. Of course, there may be provisions in the Bill which will go to set aside election. But there are powers given to the Judge and the Judge will exercise his judicial discretion in deciding a case. He is the proper person to exercise this power. In this Bill power has been given to the District Judge and not to the District Magistrate or Commissioner, and I think this is a better provision than in the Bengal Municipal Act. What is happening nowadays in connection with disputes in local bodies is—civil suits are filed and dragged on for a long time with the result that a new Board cannot be formed. With all respect to our subordinate judiciary in Bengal, it is found that in most cases the Munsiffs are too glad to grant an injunction whenever a suit is filed. They have got a peculiar mentality against local bodies. There is a provision in this Bill as regards granting of injunction, same as in the Bengal Municipal Act and other Acts. With these words, I oppose the motion for circulation.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I also rise to support the motion for consideration of the Bill, and with regret I oppose the motion for circulation. I do not agree that the honourable member who has moved his amendment has done anything wrong. I think he has been doing some amount of public service in this House by opposing the Government measure. This opposition is not obstruction. I think in a deliberative assembly healthy opposition is necessary, and I believe he has done nothing more than initiating healthy discussion on the principles of the Bill, especially in these days when the Congress has chosen to remain away from the House, the burden of leading the Opposition to a great extent has fallen on his shoulder. The principle of the Bill is to discourage long-drawn-out litigations as in other self-governing Acts.

Now, Sir, what will happen, if the result of the I.F.A. Shield Match or the result of the Viceroy's Cup Race becomes the subject of litigation? Much mischief is being done by allowing the parties to come to the Civil Courts and enjoying dilatory tactics to their heart's content. I have found myself that in certain Courts there is a tendency to grant

injunctions without much consideration. In a case which happened some time ago in my district, it was with the greatest efforts by very powerful and influential lawyers that the Court could be induced to refrain from granting injunction against the holding of an election. So, the abuses of the law are many. In another case a plaint was filed by a man who knew nothing about the case. The case went on for about a year and when the man came to the witness-box—he was supposed to have been a candidate for the local board election—in cross-examination he was asked as to what he had stood for, whether he was a candidate for the local board or district board or the Bengal Legislative Assembly or the village union board. After a long deliberation he said that he was a candidate for the village union board. He did not know that he was a candidate for the local board. In this manner puppets are put forward by interested persons who unduly prolong their official lives by such tactics. Sir, in this way the formation of a new Board is delayed.

With regard to one point which has been mentioned by Mr. Humayun Kabir and which is about sub-clause (*2*) of the proposed section 18D, I have not very carefully considered this but, speaking offhand, I am disposed to agree with him that this introduces some amount of anomaly in the Bill. That is a matter of detail, though it is a matter of important detail too. As at present advised, I agree with him subject to reconsideration later on. Sub-clause (*1*) of proposed section 18D deals with certain cases where elections could be declared void. Sub-clause (*2*) attempts or rather pretends to lay down certain conditions——

Mr. PRESIDENT: Order, order. The honourable member will not be in order to discuss the details of the clauses at this stage. Of course, it was mentioned by one honourable member, but the time will come later on for discussion when the House will take up the clauses of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: I am grateful to you, Sir, for reminding me of this. I should submit that sub-clause 18D (*2*) requires careful consideration but, with regard to the other parts of the Bill, I fully agree with the principle that it is not necessary to send out the Bill for eliciting public opinion. In fact, there may be indeed public opinion which may desire to prolong the life of the existing self-governing institutions or rather that of the managers of the self-governing institutions. They may very much desire it, but on principle obviously there is no reason why the principle laid down in other Acts should not be introduced in this Bill.

With regard to drafting I find, as has been mentioned before, that the Bill has been taken bodily from the Bengal Municipal Act. Sub-clause (*2*) of clause 18D is an innovation and probably it is revolutionary in its character. However, that is a matter to be considered later on. I submit, however, that the provisions dealing with the setting aside of elections in the Bengal Municipal Act are to a great extent

unworkable. They have not been very happily drafted. But this Bill is, in the main, a copy of the same. I heartily support the principle of the Bill and am of opinion that there is no need to send the Bill for eliciting public opinion.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, my honourable friend Professor Humayun Kabir has criticised my motion firstly, on the ground that though I am so fond of eliciting public opinion on non-official Bills, I do not propose to do so in this case. Generally, I am reluctant to accept any new measure without obtaining public opinion thereon. If that is a fault, I plead guilty to it. But here I am not proposing anything new. It is an old principle which I am asking my friend to accept.

I will draw Professor Kabir's attention to section 18B of the Bengal Local Self-Government Act of 1885. The clause to which he has referred, I mean 18D (2), has been taken from section 18B (2) of the existing Local Self-Government Act. So I am not trying to introduce any new principle in this Bill. Besides incorporating all the relevant sections of the Bengal Municipal Act, I am also trying to introduce some of the clauses which already exist in section 18B of the Local Self-Government Act. Moreover, this Bill is also supported by the Bengal Legislative Assembly and the Bengal Legislative Council practices for setting aside an election. I may draw your attention in this connection to rules 7, 8, 9 and 10 in the Bengal Legislative Manual, Volume I. So it will be seen that it is no new thing that I am trying to introduce. Therefore, there is no point in circulating the Bill for eliciting public opinion. Moreover, it is absolutely essential that such a Tribunal should be set up for disposing of election disputes. Under section 18 of the Local Self-Government Act, it is not specifically provided that the jurisdiction of the Civil Courts is barred; so that, in spite of section 18D, parties can take the matter to the Civil Courts and that is why this Bill has been introduced to remove that lacuna in the existing law. I hope, Sir, I have succeeded in making the point clear and trust that my honourable friend will now agree to withdraw his opposition.

Mr. PRESIDENT: The question before the House is: that the Bengal Local Self-Government (Amendment) Bill, 1941, be circulated for the purpose of eliciting opinion thereon by the 30th September, 1941.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that the Bengal Local Self-Government (Amendment) Bill, 1941, be taken into consideration.

(The motion was agreed to.)

Adjournment.

The Council then adjourned till 2-15 on Thursday, the 20th March, 1941.

Members absent.

The following members were absent from the meeting held on the 19th March, 1941:—

(1) Mr. Kader Baksh.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Mr. Shrish Chandra Chakraverti.
(4) Khan Bahadur Rezzaqul Haider Chowdhury.
(5) Mr. Narendra Chandra Datta.
(6) Mr. Kamini Kumar Dutta.
(7) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(8) Mr. Mahomed Hossain.
(9) Khan Bahadur M. Abdul Karim.
(10) Maulana Muhammad Akram Khan.
(11) Dr. Radha Kumud Mookerjee.
(12) Mr. Ranajit Pal Chowdhury.
(13) Dr. Kumud Sankar Ray.

B. G. Press—1941-42—120A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Thursday, the 20th March, 1941, at 2-15 p.m., being the fifteenth day of the First Session, persuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Class-rates for the binders, compositors and machinemen in the Bengal Government Press.

58. Mr. NARESH NATH MOOKERJEE (on behalf of Mr. Shrish Chandra Chakraverti): Will the Hon'ble Minister in charge of the Finance Department be pleased to state—

(*a*) whether he is aware that there are different class-rates for the binders, compositors and machinemen of the Government of India Press, 8, Hastings Street, and the East Indian Railway Press, Fairlie Place, Calcutta;

(*b*) whether he is aware of the fact that there is one single class-rate for the binders, compositors and machinemen of the Bengal Government Press;

(*c*) if the answer to the above be in the affirmative, will he be pleased to state what is the reason of the difference in the class-rates of the Government of India Press, the East Indian Railway Press and the Bengal Government Press; and

(*d*) will he be pleased to state the highest class-rate for the binders, compositors and machinemen of the Government of India Press, the East Indian Railway Press and the Bengal Government Press respectively?

MINISTER in charge of the FINANCE DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*a*) There are different class-rates for compositors, binders and machinemen in the Government of India Press. It is understood that the piece work system in the East Indian Railway Press was abolished in 1930-31 and therefore no class-rates exist in that Press.

(*b*) In the Bengal Government Press, the class-rates (which are called "grade-rates") are the same for those binders, compositors and machinemen to whom the unrevised piece-rates are applicable. For those to whom the revised piece-rates apply, the class-rates vary.

(*c*) The reason for the difference in the class-rates of the Government of India Press and the Bengal Government Press is that the rules for fixing class-rates in the two presses are different.

(*d*) The highest class-rates in the two Presses are as follows:—

	Government of India Press rate per hour.		Bengal Government Press rate per hour.	
	Unrevised.	Revised.	Unrevised.	Revised.
	As. P.	As. P.	As. P.	As. P.
Compositors	10 2	9 2	12 0	10 2
Binders	5 4	5 0	12 0	6 1
Machinemen	5 4	5 0	12 0	6 1

Bethuri Debt Settlement Board.

59. Mr. NARESH NATH MOOKERJEE (on behalf of Mr. S. C. Chakraverti): Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state—

(*a*) whether it is a fact that the Bethuri Debt Settlement Board, police-station Kasiani, in the district of Faridpur, was at first constituted with Babu Gangadhar Bain, B.A., as Chairman and Babu Bireswar Biswas, Babu Prafulla Kumar Bose, Babu Kunja Behari Biswas and Maulvi Abdul Wazed Molla as members;

(*b*) whether the said names were published duly in *Banglar Katha* (Bengal Weekly) of the 6th November, 1939;

(*c*) on what ground Babu Sreepati Prasanna Thakur was afterwards made the Chairman of the said Board by replacing Babu Gangadhar Bain, B.A.;

(*d*) on what ground Babu Keshablal Samajpati was nominated a member of the said Board by replacing Babu Kunja Behari Biswas;

(*e*) whether he is aware that Babu Sreepati Prasanna Thakur is the President of the Orakandi Union Board, police-station Kasiani, district Faridpur;

(*f*) whether Babu Gangadhar Bain was not informed as to the reason why he was replaced by Babu Sreepati Prasanna Thakur;

(*g*) whether he or his department received any complaint regarding the character of Babu Gangadhar Bain; if so, what; and

(*h*) whether it is a fact that the District Magistrate of Faridpur as well as the Subdivisional Magistrate of Gopalganj did not recommend the name of Babu Sreepati Prasanna Thakur for nomination for the chairmanship of the said Board?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) No.

(*b*) Some names were wrongly published in the paper but the mistake was subsequently corrected by an erratum published in the same paper on the 27th November, 1939.

(*c*), (*d*), (*f*) and (*g*) These points do not arise as there was no question of replacement of any member.

(*e*) Yes.

(*h*) The correspondence between the different officers on this subject is always treated as confidential and I regret the details cannot be disclosed. I can however assure the House that there is no foundation for the assumption made in this part of the question.

Complaint against the Jute Census Officers.

60. Mr. K. C. ROY CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state whether it is a fact that Mr. Indu Bhusan Sarkar of village Shankarpur, police-station Narail, district Jessore, sent a petition to the Hon'ble Minister in charge of the Agriculture Department through the District Magistrate of Jessore and the Subdivisional Officer of Narail, dated the 3rd March, 1941, complaining against the Jute Census Officers?

(*b*) If the reply to part (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state what action is being taken by the Government or the Government is intending to take in the matter? If not, why not?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) No such petition has been received.

(*b*) Does not arise.

Mr. PRESIDENT: The House will now discuss the Supplementary Estimate of Expenditure.

Point of Information regarding Dacca Riot Situation.

Mr. LALIT CHANDRA DAS: On a point of information, Sir. There was an adjournment motion regarding the riot situation at Dacca moved from this side of the House by Mr. Kanai Lal Goswami yesterday. That motion was not, however, pressed on an understanding given by the Hon'ble Chief Minister to the effect that information regarding the Dacca riots would be supplied to the House when it was obtained. Now, we are very anxious to know about the latest situation at Dacca, as many of our relations are there. May I, through you, Sir, ask the Ministers present whether any one of them is in a position to make any statement and give us any information on the subject?

The Hon'ble Mr. H. S. SUHRAWARDY: May I remind the honourable member that the statement made by the Hon'ble Chief Minister was to the effect that he was prepared to answer a short-notice question on the subject? I may, however, inform the honourable members that in order to get first-hand information on the subject and to bring about peace and harmony in Dacca, the Hon'ble Chief Minister left for Dacca this morning.

Mr. LALIT CHANDRA DAS: Sir, I think the Hon'ble Minister is quite correct when he says that the Hon'ble Chief would answer a short-notice question if it is tabled. But a brief report which appears in the newspapers shows that the Hon'ble Chief Minister assured that the Government would place before the House information whenever that may be collected. We would like to know whether there is any information available on the subject.

Mr. PRESIDENT: The Hon'ble Mr. A. K. Fazlul Huq assured that he would supply further information if available and if asked for. The Chair understands that the Hon'ble Chief Minister has left for Dacca. He is not in the House to give further information on the matter, but the Hon'ble Mr. Suhrawardy has given the information that was available. Is it any use insisting on information when all that was available has already been supplied? I would suggest to the honourable member that he may put a short-notice question and that will be an occasion for giving further information available.

Mr. NARESH NATH MOOKERJEE: Then, Sir, are we to take it that Government has no information with regard to the present situation in Dacca?

The Hon'ble Mr. H. S. SUHRAWARDY: There is no information which we can impart to the House as official.

Discussion on the Supplementary Estimate of Expenditure.

Mr. PRESIDENT: The House will now take up discussion on the Supplementary Estimate of Expenditure.

Mr. LALIT CHANDRA DAS: On a point of information, Sir—

Mr. PRESIDENT: Point of information about what?

Mr. LALIT CHANDRA DAS: Point of information as to whether we can raise a discussion on the proposal to make a contribution on the Mayor's Fund.

Mr. PRESIDENT: Yes, you may.

Mr. LALIT CHANDRA DAS: Mr. President, I think that this contribution is thoroughly illegal. Sir, it is very difficult to deal with an irresponsible Government pretending all the time to be responsible to the people. This sense of irresponsibility has been generated into the hearts of the present Ministry by the certain belief that it has behind it a comfortable blind majority of voters who have made it their business in the House to say "yea, yea" and "nay, nay" to every "yes" or "no" of the present Ministers. That sense of light-hearted irresponsibility has prompted the Ministry to allot a rupee as contribution to the Mayor's Fund intending to replenish it with a lakh of rupees afterwards from the provincial revenues.

Sir, the object is undoubtedly noble, namely, the relief of sufferers from the air raids in London. For this, Sir, already a Mayor's War Fund has been started. I have no doubt that that fund has been liberally subscribed. I trust it will be over-subscribed for the good name of Bengalees. The cause is good, it deserves support. The relief must not be confined to sufferers in London only, but should extend to all sufferers within the British Isles.

Sir, whenever a great catastrophe takes place, it is the usual custom throughout the civilised world to open Mayor's Fund or some such funds for the relief of sufferers. When there was earthquake in Behar and in Quetta side, not only there was the Viceroy's Fund but several

other funds were started outside India, in the British Isles and elsewhere, which were subscribed by people individually, but nowhere is there a single instance that any Government outside India contributed to the quake funds from its revenues. For the relief of quake sufferers in Behar and Quetta, any contribution from Public Exchequer would be permissible under the law, for them it would be expenditure for the purpose of India under section 150 of the Government of India Act. For relief, however, of any sufferer, for any cause, outside India such a contribution would be clearly illegal. Section 150 is a bar to such a contribution. It runs as follows:—"No burden shall be imposed on the revenues of the Federation or the Provinces except for the purposes of India or of some part of India" and the second clause, Sir, is made subject to the first clause in that section 150. That second clause is "subject as aforesaid", that is to say, subject to clause 1 of section 150—"subject as aforesaid the Federation or a Province may make grant for any purpose, notwithstanding that the purpose is not one with respect to which the Federal or the Provincial Legislature, as the case may be, may make laws". This, Sir, is our law. In spite of this section, Sir, when the Ministery puts in a figure as contribution to the relief of sufferers outside India, it amounts to as much as saying—"here we are, do your worst." For, it has been pointed out in the speech of the Hon'ble the Chief Minister that, in spite of the clear wordings of the section just quoted, you may go to the Federal Court or the Privy Council. In that event, if you ultimately win, it will not be from Mr. Fazlul Huq or Mr. Suhrawardy that you will get the money, it will be a money recoverable in the long run from the revenues of the Province, which would mean—your decree—even if you get a decree, will be a dead letter.

Sir, there is a sort of cowardice which underlies this contribution It is not very many months ago that the Turks suffered terribly from earthquake and several lakhs of people were involved in the catastrophe. Beyond opening funds for relief of the sufferers in Anatolia, nothing was done—no such contribution as from the revenues of the Province was contemplated. Is it because they were not our masters or is it because such a contribution from public funds would have been illegal or, is it because that at that moment the Ministry thought that such contribution would be illegal? And now, here are our masters and therefore no consideration of illegality must stand in the way. Is that not the idea? I therefore say that there is some sort of cowardice underlying this proposal of a contribution from the revenues of Bengal.

Sir, there is another point which I would like to touch upon. There is the Sales Tax coming. In this we have been assured by the Minister concerned that funds are wanted for the purpose of doing good to the nation through nation-building activities. Well, Sir, that has been the pretext for the Sales Tax. Now regarding the contribution to the

Calcutta Mayor's Fund we learn it from the Chief Minister that there will be several lakhs of rupees not spent under head "Miscellaneous". That is just the way the budget is prepared. Expenditures are shown therein on some heads which cannot be spent so that there is a so-called deficit budget and that deficit budget is brought before the House threatening the members that we must agree to a Sales Tax in order to make good the deficit. Now here under the head "Miscellaneous" are several lakhs of rupees which are going to be spent against the provisions of the law. Why not transfer this vast amount of savings for the relief of the people of Bengal, for improvement in the nation-building subjects, for sinking tube-wells and other measures throughout the province? With these words, Sir, I oppose this item.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Sir, the supplementary estimate of expenditure of Re. 1 submitted to this House by the Hon'ble Chief Minister is certainly both a noval and an extra-ordinary one. It is the intention of Mr. Fazlul Huq and his Government to contribute one lakh of rupees to the War Fund which the Mayor of Calcutta has opend for the relief of London Air Raid victims. This token estimate, if I may, Sir, describe it as such, has no doubt been submitted to this Chamber for giving us an opportunity to discuss the pros and cons of the proposal. But all the same, Sir, I do not understand why the estimated expenditure has been placed at Re. 1 instead of at one lakh.

In proposing to make this grant to the Mayor's War Fund the Government of Bengal has interpreted its powers under section 150(1) of the Government of India Act in its own way. I do not know, Sir, if the Cabinet consulted the Advocate-General about the implications of this section of the Constitution Act. Anyway, the Chief Minister has admitted that the final interpretation of the section can only be made by the Federal Court and the Judicial Committee of the Privy Council. In view of the fact that the interpretation of the section involves a controversy, I do not understand, Sir, why the Government is persisting in utilising the section for the purpose of making this grant of one lakh of rupees. The section referred to definitely points out that "no burden shall be imposed on the revenues of the Federation or the Province except for the purpose of India or some part of India." In the first place, Sir, the relief of the Air Raid victims of London, however desirable it may be, is not certainly a matter touching the welfare of either India or any part thereof. Secondly, Sir, if such relief is regarded as part and parcel of the military policy, it is a function of the Government of India and not of this Province. It appears that from these standpoints the contemplated action of the Government of Bengal will be *ultra vires* of the Constitution.

The sum involved is more or less a paltry one. It is only one lakh of rupees. I believe, Sir, the War Fund which the Mayor has opened

will not be very much the poorer if the Provincial Government does not make this grant. On the other hand, by making this grant, the Government will open itself to a legal dispute which certainly from every point of view will be undesirable.

Mr. NUR AHMED: Mr. President, Sir, with your permission I wish to say a few words on the demand before the House. Sir, it has been said that the Government of India Act does not permit such a contribution. It has also been said that there are better objects on which this money could more profitably be spent. Now, the question is whether it is really legal to make this contribution to the Lord Mayor's Fund or not. As regards that, the Hon'ble the Premier yesterday assured this House that Government is satisfied that this contribution will be a legal one, and that there is no bar according to the first part of section 150 of the Government of India Act. But I do not like to enter into the question of legality or illegality, or the legal quibbles and intricacies. I want to discuss this question from another point of view and that is from the point of view of humanity and also whether it will be for India's interest to make this contribution or not. Sir, the great war is raging on and is causing immense sufferings on humanity. To-day the Britishers voluntarily or involuntarily have plunged themselves into this great life-and-death struggle. To-day the whole world is witnessing this wonderful phenomenon, this struggle, the supreme example of self-sacrifice on the part of a nation which had no business to plunge itself into this great war. This war is making weaker nations' position unsafe, it is making democracy unsafe, it is making the world also unsafe for freedom-loving people. The British people have plunged themselves into a war—a devastating war, if I may say so—with a grim determination to sacrifice all, their valuable property and their dear and near ones too; and one who considers this aspect of the question cannot but feel a great administration for this noble nation which is sacrificing all in the face of immense difficulties and still remaining undaunted in the face of supreme hardship. I think, Sir, it is the consideration of human suffering, which prompted the Government of Bengal to contribute a sum of one lakh of rupees to the Mayor's Fund. We all know, Sir, what Nazism and Fascism are doing in that part of Europe and there cannot be two opinions in this country about that. We are linked together with the British people and willingly or unwillingly India is to-day at war with those forces which are destroying the civilization that has been built up on the sacrifices of generations. The war has already spread over two great continents, and it is coming nearer to India and nobody can say when this Province of Bengal will be attacked. Already air raid precautionary arrangements are being made even in this great city of Calcutta in which we are staying. With this vivid fact before us, this horrible spectacle of human misery and

sufferings, how can we sit idly and how can we object to such a noble contribution being made to the air raid victims of London? I think, Sir, it is one of the noblest acts on the part of any Government to relieve human sufferings and, therefore, we should support this contribution and no discordant voice be raised.

Mr. J. B. ROSS: Mr. President, Sir, I desire to associate my Party entirely with the views which have just been expressed by my friend Mr. Nur Ahmed and to express the whole-hearted appreciation of this Party to the proposal of Government to donate a lakh of rupees to the Calcutta Mayor's Fund for the relief of air-raid victims in London. I do not propose here to discuss the legal aspect of the proposal at all. I have no doubt that the Government of Bengal through their Legal Department have satisfied themselves that what they propose to do is within the four walls of the Government of India Act. They have also before them the precedent of the Government of Assam which has made a similar grant to the same fund, and, again, I have no doubt that an erudite Governor like Sir Robert Reid would never have permitted such a grant to be made if he had any doubt whatever as to its legality. We, Sir, know the character of the enemy whom we are fighting to-day, the Germans, and we know that it has never been their practice to confine their bombing raids to purely military targets. They were heavily defeated in their daylight raids over England by the magnificent defence put up by the Royal Air Force and by the ground defences, and they were compelled therefore to resort to night bombing, in the carrying out of which they have wrought considerable damage both to life and property not only in London but throughout the country. It is a well-known fact that the object of the enemy in indulging in the bombing of civil populations is to break the morale of the people and cause them to bring about a public opinion which will either sue for peace or for surrender to the enemy. That effect, I think all of us will agree, has not been attained in the bombing of the British Isles. The British people, and particularly those in the congested areas and the East End of London who have suffered considerably by these bombing raids, have displayed a courage and fortitude which must be the admiration of the whole world. I would say that the effect of that bombing has been to stiffen the attitude of the British nation and to make them all the more determined to wipe out this Nazi menace which is in existence to-day. It is singularly appropriate therefore that Calcutta, the second city in the Empire, should show its sympathy with the people of London by opening a fund for the relief of the air raid victims, and it is a matter for congratulation that the Government of Bengal should demonstrate that sympathy in the manner in which it is now doing before this House, by its desire to give support and aid to this fund in such a concrete form.

This Council, Sir, in December, 1939, passed a resolution expressing the opinion that whole-hearted help and support should be given to the British Government in the prosecution of the war against the German menace; and we consider that this contribution to the Mayor's Fund will give concrete evidence of our support to the Allies in their struggle. Apart from that, we will earn the gratitude of the people of London—a gratitude which, I know, will be repaid in full, should this city ever find itself in the position in which London is placed to-day.

Sir, I have the greatest pleasure in supporting the supplementary demand before the House.

Mr. PRESIDENT: I would like to make it clear that there is no motion before the House. The Council has the right only to discuss the supplementary estimate of expenditure.

Mr. J. B. ROSS: I have great pleasure in supporting the discussion.

Mr. HUMAYUN KABIR: Sir, in offering a few remarks on the Supplementary Estimate of Expenditure which has been placed before this House, I may also remind the House that here there is no question of voting of grants. We are only discussing the question of a token demand which has been brought forward by the Government in order to enable it to contribute a lakh of rupees to the Mayor's Fund for the help of the air raid victims in London. I do not think there is anybody in this House who does not admire the fortitude and courage of the people of London—and of England generally—in the face of the great danger which is threatening them. Everyone must admire their courage and the wonderful resistance they have put up against a powerful enemy, and therefore from that point of view there is no difference of opinion between the different sections of the House. Again, Sir, I do not think there is any difference of opinion so far as the question of relief of suffering is concerned. Suffering wherever it takes place, should be relieved as much as it lies in our power. It should be our duty to allay suffering. It was also said by my friend Mr. Ross, a few moments ago, if this contribution is now given to the victims of London air raid, London will repay it in full should India require such aid. We have actually seen that on previous occasions, in the case of earthquakes in Bihar and Quetta, a Lord Mayor's Fund was started in London to help the victims of these natural calamities.

So far as the question of giving relief to the air-raid victims is concerned, as suggested by Mr. Lalit Chandra Das, if aid should be

given by the Government at all, it should not be confined to London, but to other cities in the British Isles affected by air raids. So far, therefore, there is no difference of opinion.

Then, Sir, I would not to-day raise the question of the legality of making this contribution. The question has been raised by Mr. Lalit Chandra Das and vehemently opposed by Mr. Nur Ahmed. But I was rather amused to find Mr. Ross going out of the province -to Assam - in order to make a reference to the erudition of the Governor of Assam. I do not understand what he meant by going outside the province. The Government of Assam, and no doubt the Government of Bengal must have been well advised to consult their legal advisers before they went into the subject. I do not also want to go into the controversial matter that was raised by Mr. Nur Ahmed. It is at least questionable if the war is one for democracy, but I do not want to raise that objection to-day. I hope it will certainly give democracy to Mr. Nur Ahmed and to his nation and, if it does, I think out of all the evil and all the conflagration and all the suffering which to-day disfigures the face of the whole civilized world, some good will have come. If after the Armageddon, people in the world realize that domination of one people by another is not good either for the dominating or the dominated, perhaps out of this terrible suffering something good might be born. Into all those questions I shall not enter. But I only want to draw the attention of the Hon'ble Minister to two aspects of the question. This is after all a very extraordinary measure, the question of giving relief from the public revenues of a Province for distress outside India, and I would urge upon the Government that this should not be regarded as a precedent. Even if in the very exceptional circumstances of to-day there might be some justification for making the grant, this should not be used by Government as a ground for making any such grant in future. The public revenues of Bengal should be utilized primarily for the relief of suffering, for the meeting of the problems with which we are faced in this country. In view of the many difficulties and in view of the suffering and the destitution from which our own people are already suffering, I wonder how far it would be proper for the Government to divert the funds of the public revenues of the Province to other directions.

So far as the Mayor's Fund is concerned, it has our sympathy. One cannot but admire the heroism and fortitude of the Londoners but, as far as contributions to such a fund are concerned, if they are made by private beneficiaries and if the Hon'ble Ministers themselves had taken an initiative in that direction and raised funds for the Mayor's Fund of Calcutta, I think there would not have been any question or any criticism from any side of the House. But how far the public revenues can be utilized in such a matter is another question, question of interpretation of the Act; and particularly in view of the two facts

which have been mentioned to-day earlier, namely, the supposed deficit budget and the enormous savings under the head "Miscellaneous," I think these savings might be devoted to some among the very many problems of our own which await solution.

These are my feelings, Sir, and I do not want to make any other remarks in connection with this demand.

Maulvi ABUL QUASEM: I regret, Sir, that Mr. Lalit Chandra Das is not here to listen to the few remarks that I desire to make being provoked by his speech. Well, Sir, Mr. Lalit Chandra Das began by saying that this Government is irresponsible. I believe his idea of responsibility is that a particular Government should be responsible not to the party which is in the majority and which supports it, but to the party which is in the Opposition and which is in a minority. Perhaps he would call that Government responsible which is subservient to the will of the minority party which is in the Opposition. Well, his idea of Democratic Parliamentary Government is peculiar and queer. If this Government is responsible to the majority party here, it means they are only responsive to public opinion. Mr. Lalit Chandra Das would have it that this Government should be subservient to his will which he thinks to be the will of the country. He has mixed up most of the matters because of the mistaken idea under which he and, if I may say so, his party, are labouring. This Government has responded to the people of this land and by bringing forward this proposal before this House they are only showing responsiveness to public opinion. Well, Sir, Mr. Lalit Chandra Das has thoroughly misunderstood the idea underlying this grant. What is the idea, let me ask, Sir? This one lakh of rupees is not going to alleviate the entire distress which has been caused by the merciless air raids by the Germans over the city of London, but this small sum is only a token of our appreciation of the real heroism that is being displayed by men, women and children of England, particularly of the London city. By showing this appreciation I believe we are simply elevating ourselves to a nobler atmosphere. We people in this country including my friends in the Opposition have a passionate desire for freedom, but the British people are actually showing how freedom is to be maintained against ruthless attack. By proposing to make this grant to the British people you do really show that you admire, you respect, you reverence the spirit of resistance to the determination of the Nazis to destroy freedom. By pouring cold water on the policy of the Bengal Government, you really show you have no idea of how freedom is to be defended which we all seem so eager to get. Well, Sir, then Mr. Lalit Chandra Das talks of cowardice behind this proposal. He is a man whom I know to be a great hero in verbal warfare. I wish, Sir, he were brought face to face with the sort of ordeal which the common people of London are

daily and hourly experiencing, and I would like to know what sort of reaction it would cause in Mr. Lalit Chandra Das. He accuses this Government of cowardice in bringing forward this proposal. I do not know what he means by this. He has given expression to this sort of thing and has gone away——

Mr. PRESIDENT: Order, order. It is against parliamentary decorum for an honourable member not to be present in the House when a reply is given to the observations made in the course of his speech against the member of any other Party. I find that neither Mr. Das nor any other member of the Party to which Mr. Das belongs, is present in the House now. It is not at all fair that any member should criticise others and then leave the Chamber without waiting to hear what the members or the Party so attacked has got to say in reply. I am really sorry that a responsible member like Mr. Das should have done so.

Mr. NARESH NATH MOOKERJI: Sir, I shall convey your remarks to Mr. Lalit Chandra Das.

Maulvi ABUL QUASEM: However, Sir, I will not take more time of the House over the remarks made by Mr. Lalit Chandra Das.

Speaking for myself, I say, Sir, that this is no occasion for controversial politics. I say that it is a privilege of the people of Bengal to show their appreciation, their sympathy, their respect and their admiration for the heroic spirit in which the common people of London are bearing the great strain to which they are being subjected, and by proposing to make this contribution to the Lord Mayor's Fund, in order to share in relieving the distress of the victims of air raids in London, I believe the Government of Bengal are really doing a service to the people of Bengal, they are really carrying out the desire of the people of Bengal, and if there is anybody who says that it is not the desire of the people of Bengal to show sympathy in this distress of the victims of the air raids in London, I should say that he is not in touch with the public opinion of Bengal.

I do congratulate Government for bringing forward this proposal before the House. I express my whole-hearted support to it.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I beg to associate myself with what has been said by the Leader of the European Group, Mr. Ross. He has explained to this House the circumstances under which this token demand has been placed before the House. I am not a lawyer, nor have I much knowledge of law, but apart from the legal question, what strikes me is that the object of this token demand is the most laudable one. No one can deny

that there has been suffering in London and other parts in England and that it is the duty of India to see that those sufferings are mitigated as much as possible, whether by men or money or in any other shape. This token demand has been placed with a view to mitigate the sufferings and to minimise them. Apart from that question, from the humanitarian point of view also, as Mr. Ross has already pointed out, it is our duty to see that the war resolution which was carried in this House some time back be carried into action and not remain as a mere pious wish. Sir, on behalf of my party I support this motion, but at the same time I would ask the Government that in future they should think twice before they bring to the House any such motion.

It has already been pointed out that we have any number of problems in our own Province; so it is our duty to see that those necessities are attended to first.

Mr. PRESIDENT: Order, order. There is no resolution before the House, as the Hon'ble Raja Bahadur seems to think. The House is only discussing the Supplementary Estimate of Expenditure.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: All right, Sir. With these few words I support the demand for grant that has been asked for by the Hon'ble the Finance Minister.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I cannot do better than endorse the views expressed by my honourable friend Maulvi Abul Quasem and by Mr. Nur Ahmed regarding the purpose of the token demand moved by the Hon'ble Chief Minister. In a speech vibrant with sympathy for the fortitude of the people of London, which expressed forcibly the views of the people of this province, Mr. Abul Quasem has placed before the House what I feel every right-thinking man in this Province feels in his heart of hearts, and it has pained me considerably to find that an honourable member like Mr. Lalit Chandra Das should have opposed the motion of Government in this connection, or at any rate, as he can only discuss the demand, should have given expression to views which may give the impression that he and his party are not in favour of this sum of money being paid to the sufferers of London City from the provincial revenues. He began his speech by making a remark which is somewhat out of place in an august assembly of this kind. He threw a gibe at the Coalition Party by saying that members of the Coalition Party always say "Yeas" and Nayes" whenever the Government wish them to say "Ayes" or "Noes". I am sorry that Mr. Lalit Chandra Das is not here to hear what I have to say in this behalf—that, although I have never heard the Coalition Party uttering such expressions, I have on the contrary certainly heard the honourable members on the other side saying "Yeas" and "Nayes" whenever Government desire to say "Noes" and "Ayes". Then, he said that the object

of the demand was noble. A Mayor's Fund has been started and no doubt it has received satisfactory subscriptions. Sir, the question here is not whether the Mayor's Fund has received or not received satisfactory subscriptions. The question is whether this Government, giving expression to the views of the people of the Province—and that is the point on which I lay greater stress than on anything else—is not entitled out of the money of the people of the Province to give a tangible expression to the views of the people. In my humble judgment, all right-thinking persons within the Province desire to assist the sufferers in the City of London and at the same time to give some tangible expression to their admiration for the heroism of these people, particularly for the manner in which they are fighting for their ideals—ideals which every nation that wishes to call itself civilized must subscribe to. Now, Sir, the legal position also has been controverted by Mr. Lalit Chandra Das. The Hon'ble Chief Minister when placing the estimate before the House for purposes of discussion referred to the legal position and stated before the House that in the considered opinion of Government, and as a matter of policy, Government considered that the payment came under the purview of section 150 of the Government of India Act. Now, Sir, section 150 states, as all honourable members have realised, that money may be spent from the provincial revenue if money is to be spent for the purposes of India. "For the purposes of India" is a wide expression. It does not necessarily mean that they have got to be spent within the borders of India. India has a place in the world itself. It has a certain place, may be a humble place, in the Comity of Nations. It has to maintain its dignity and prestige amongst the nations of the world. And apart from this fact, Sir—a fact which I would like to ignore, because I would not like to mix utilitarian motives with the humanitarian motives which prompt us to come up before the Legislature—perhaps this sum of money may well be construed as spent for the welfare of India. Mr. Ross has said that the people of England, or of London, will repay a hundredfold if we are in such difficulties as the people of London find themselves to-day, that they will not forget the hand of fellowship and of sympathy which we are extending towards them to-day. The contribution which we are making to-day may come back to us in the days of our own difficulties. At that time honourable members like Mr. Birendra Kishore Roy Chowdhury, who wish to know whether the contribution is for the welfare of India, will be properly answered.

Well, Sir, I think some other honourable members have put it that the moral and humane obligation which prompts us to pay this money or to make this contribution, is sufficient for our purposes. It certainly affects India's position in the Comity of Nations, and I am, Sir, fortified in this opinion by the views expressed by the authors of the Government of India Act or by its progenitors, namely, the Joint Select Committee

who in their report at page 178 say—in regard to this particular section or the wording of the section, that it might on occasions be to India's general interest to make a contribution to the cost of external operations. The words in section 150, namely, "for the purposes of India," have been kept wide and purposely as wide as possible: interpretation has also been given on the following lines—any activity the pursuit of which is in the country's interest not necessarily in the nature of a specific and measureable benefit and would include broad considerations of the reputation and dignity of India in the Comity of Nations——

Mr. PRESIDENT: May I draw the attention of the Hon'ble Finance Minister to the fact that during the last Great War of 1914-18, when the Government of India made a contribution of 100 crores of rupees for helping the war efforts, it was not objected to on the ground of illegality, though in section 20 of the Government of India Act, 1915, the language was the same as in section 150 of the present Act, namely, "*For the purposes of India.*"

The Hon'ble Mr. H. S. SUHRAWARDY: I am grateful, Sir, to the Chair for pointing out this. I hope this will lay for ever the controversy that this money or this contribution is hit by section 150 of the Government of India Act and that, therefore, it cannot be made. Sir, I also join in the voice of appreciation of those honourable gentlemen who have supported Government in this measure.

Mr. PRESIDENT: The Council stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Friday, March 21, 1941.

Members absent.

The following members were absent from the meeting held on the 20th March, 1941 :—

(1) Mr. Kader Baksh.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Mr. Shrish Chandra Chakraverti.
(4) Mr. Hamidul Huq Chowdhury.
(5) Khan Bahadur Rezzaqul Haider Chowdhury.
(6) Mr. Bankim Chandra Dutt.
(7) Mr. Narendra Chandra Datta.
(8) Mr. Kamini Kumar Dutta.
(9) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(10) Mr. Kanai Lal Goswami.
(11) Khan Bahadur Syed Muhammad Ghaziul Huq
(12) Khan Bahadur M. Abdul Karim.
(13) Maulana Muhammad Akram Khan.
(14) Sir T. Lamb.
(15) Dr. Radha Kumud Mookerjee.
(16) Mr. Ranajit Pal Chowdhury.
(17) Dr. Kumud Sankar Ray.
(18) Mr. K. C. Roy Chowdhury.

B. G. Press—1941-42—122A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 21st March, 1941, at 2-15 p.m., being the sixteenth day of the First Session, pursuant to section 62(2) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Scheme for the promotion of communal harmony.

61. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether he is aware that the Government of the Punjab have prepared a scheme for the promotion of communal harmony in the Province and have provided for the purpose a sum of rupees one lakh in the next year's budget estimate?

(*b*) Is he aware that the scheme envisages the collection of authentic historical incidents indicating tolerance and respect for the susceptibilities of the followers of other religions on the part of Hindu, Muslim and Sikh rulers, both past and present, organisation of lectures by eminent leaders on communal harmony, encouragement of papers and magazines of good standing which studiously refrain from indulging in communal politics and consistently advocate communal harmony, awarding of prizes for essay by college and school students on the subject of communal harmony, and encouragement of similar activities?

(*c*) If so, do the Government of Bengal propose to draw up a feasible scheme suitable to the special conditions of Bengal for the promotion of communal harmony in Bengal on the lines of the Punjab scheme? If not, why not?

(*d*) If the reply to part (*a*) be in the negative, do the Government of Bengal propose to make enquiry from the Government of the Punjab at an early date with a view to getting full particulars of the Punjab scheme? If not, why not?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Minister in charge of the Home Department): (*a*) and (*b*) I have seen Press Agency messages to this effect.

(*c*) and (*d*) I am asking the Punjab Government to furnish me with details of their scheme and when these are received, I shall be in a position to consider to what extent they can be applied to the problem in Bengal.

Non-official Resolutions.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Sir, I beg to move that this Council is of opinion that a committee be appointed consisting of the following members to enquire into the grievances of the work *sircars* of the Communications and Works Department and to suggest remedial measures thereon, with instruction to submit its report by the 31st March, 1941:—

(1) the Hon'ble Minister in charge of the Communications and Works Department,

(2) Mr. Hamidul Huq Chowdhury,

(3) Mr. Humayun Kabir,

(4) Mr. Latafat Hossain, and

(5) the mover,

the quorum of the committee being three.

Sir, in moving this resolution, I may state that before 1920 when this department was known as the Public Works Department, the posts of sub-overseers were abolished. The sub-overseers in those days used to supervise constructions and repairs of roads, buildings and other engineering constructions. The names of these posts were changed, and they were subsequently called the work *sircars*. Sir, the technical work, such as, preparation of plans, estimates, and surveying was done at the time by the sub-overseers; but after the abolition of the posts of sub-overseers, most of the duties were entrusted to the work *sircars*, and consequently the department began to recruit better-qualified men for the post of work *sircars*. At present, throughout Bengal there are about 150 work *sircars* of whom more than 100 are either men with technical qualifications or men conversant with technical matters with which they have to deal. There are some among them who have even passed the Upper Subordinate Examinations. Practically speaking, excepting a few, all these work *sircars* have to do the same duty as the then sub-overseers used to do.

They supervise the works, that is, get the works executed or prepare plans and specifications and estimates and other office duties. But unfortunately though these onerous tasks have been put on their shoulders, yet neither the conditions of their service nor their status has been improved. These work *sircars* are not permanent hands, although most of them have put in continuous service for more than

15 years or so. They are to use a phrase coined by Government, "permanently-temporary" hands. So under the present conditions a work *sircar* after serving loyally for his whole life will have to retire without being made permanent in his service and without enjoying any of the privileges of permanent Government service.

Mr. PRESIDENT: Order, order I find that the Hon'ble Minister in charge of the department to which the resolution relates is absent.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the Hon'ble Maharaja of Cossimbazar is indisposed, but the Hon'ble Finance Minister will reply to the resolution.

The Hon'ble Mr. H. S. SUHRAWARDY: Yes, Sir, with your permission.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Sir, perhaps as this matter concerns Labour, the Hon'ble Mr. Suhrawardy will be quite the proper person to deal with it. To resume, Sir. These people have no scale of pay fixed for them by the Government, and as I have said, they are "permanently-temporary" servants of Government. These work *sircars* are doing the duties of the overseers of the olden days. There is no scale of pay fixed by Government for these work *sircars*. At present every executive engineer appoints them and fixes an initial salary for them who work in his division. In fact, their pay does not appear in the budget. So, neither at the time of fixing their initial pay nor in giving subsequent increments is the executive engineer bound to follow any rule. There are many instances when without any reason a work *sircar's* pay has been reduced from Rs. 40 to Rs. 25, while on the other hand there have also been instances where the pay of a work *sircar* has been increased from Rs. 35 to Rs. 45 and so on. Indeed, fixation of the salary and increment of wages depend entirely upon the wishes of the particular executive engineer under whom they work. There is no rule for granting them holidays and they cannot enjoy medical leave also. At present in some divisions some of the executive engineers allow ten days' casual leave to these work *sircars* in their own divisions, if circumstances permit. There is no fixed working hours for them. Most of them have to work for 12 hours a day. They have to do outdoor works and also office work, viz., prepare plans and estimates and do other clerical duties. And for these purposes generally they have to work from 8 a.m. to 9 p.m. The work *sircars* have neither pension nor any provident fund and have to retire in their old age after a

loyal and lengthy service without any such consolation for their old age. Several memorials were submitted to the Government by the work *sircars* in the year 1937, but no steps seem to have been taken by Government as yet. I put some interpellations regarding this in December last year, in reply to which the Hon'ble Minister in charge himself admitted the facts and said that the case of the work *sircars* was under the consideration of Government. But I regret to say that nobody knows when a decision will be arrived at on this matter. The work *sircars* formed an association under the style "All-Bengal Work Sircars' Association," which was duly registered under the Indian Trade Union Act, 1926, No. 6, dated the 29th July, 1939. The Association applied to the Government for proper recognition, but unfortunately no recognition was granted on the ground that some of the office-bearers were outsiders. I put interpellation in December last for ascertaining Government's views on this point and the Hon'ble Minister in charge admitted that the rules of recognition of non-industrial associations of the Central and Provincial Governments were apparently similar. Sir, I like to inform the House that the Postal Association which have been recognised by the Central Government, have got outsiders as office-bearers, viz., Srijut Mrinal Kanti Bose of the *Amrita Bazar Patrika*, Mr. Nirmal Chandra Chunder, Mr. Amarendra Nath Chatterjee, Sir Abdul Halim Ghaznavi. The Hon'ble President of the Council was himself one of the office-bearers. The Bengal Government Process Servers' Association, and various other associations formed by Government subordinates have been duly recognised by the Government although they contain outsider office-bearers.

I therefore appeal to the Government and the Hon'ble Minister in charge, and particularly to the Hon'ble Minister in charge of Labour, to form a small committee to look into the grievances of the unfortunate work *sircars* and to find ways and means to redress their long-felt grievances. I hope the House will accept my resolution. The facts narrated by me show clearly that Government is very apathetic to these hard-worked men who work from 8 a.m. to 8 p.m. They have to go about in rain, in sunshine and in the heat of the summer. They have not got any permanent status, neither do they get pension or gratuity. So I do hope that the Hon'ble Minister in charge, in consultation with the Hon'ble Minister in charge of Labour, will be able to do something to remove the grievances of these poor men.

Mr. PRESIDENT: Resolution moved: that this Council is of opinion that a committee be appointed consisting of the following members to enquire into the grievances of the work *sircars* of the Communications and Works Department and to suggest remedial

measures thereon, with the instruction to submit its report by the 31st March, 1941:—

(1) the Hon'ble Minister in charge of the Communications and Works Department,

(2) Mr. Hamidul Huq Chowdhury,

(3) Mr. Humayun Kabir,

(4) Mr. Latafat Hossain, and

(5) the mover,

the quorum of the committee being three.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, it is unfortunate that we have not yet been able to give relief to the work *sircars* of the Communications and Works Department, although the matter has been under the consideration of the Government for some time, and at the present moment it is under the consideration of the Finance Department. Theoretically speaking, they are temporary employees engaged for one kind of work, and when that work is finished they are meant to be discharged. There are many companies, many industrial concerns, many employers, who engage casual labourers and after the particular work is finished, this casual labour is discharged and no grievance can be made out of it, inasmuch as it is understood from the very beginning of the employment that the nature of the work is casual. In this case, however, although Government could have discharged the work *sircars* and re-engaged them for another item of work, it has kept them on. I think, looked at from the labour point of view, this is an improvement on the general service conditions of temporarily-employed labour engaged on casual work. Government, I do not think, can be blamed—as a matter of fact, as I have said, from the labour point of view, it deserves a little bit of congratulation that instead of discharging its temporary hands and engaging new ones from time to time, Government has endeavoured to keep them on and give them new items of work so that they may remain in continuous service. What Government feels, however, is this, that these persons having had continuous service they may legitimately look forward to some security of tenure. Some security of tenure they have secured, but with that security they can hope to secure other privileges arising out of permanent employment. Now, Sir, we are considering this matter, and we are of opinion that at any rate the nucleus of workers which we think will be necessary to carry on the day-to-day work of Government and can be transferred from one item of work to another may be given certain privileges which are generally given to permanent hands. There are other matters also which have been raised by Mr. Roy Chowdhury, and I must confess, Sir, that those other matters

have not yet been considered by us, as they were not brought to our notice before. Now that Mr. Krishna Chandra Roy Chowdhury has brought them to our notice, we shall consider each one of them and try to come, I hope, to a satisfactory conclusion regarding these work *sircars* so that they may not have any legitimate grievance.

It is clear, Sir, apart from the question whether they are temporary, or not temporary, that there are certain standards of working hours which only can be demanded of them. They cannot be made to work for all those hours which Mr. Krishna Chandra Roy Chowdhury says they have to, nor under such conditions as will put them in a worse position than even an ordinary casual labourer employed in an industrial concern. Sir, we shall look into the questions which Mr. Roy Chowdhury has raised to-day. In the meantime, Sir, we are considering the question whether we cannot give increments of pay and other amenities to this nucleus of work *sircars* whom we would like to put on a permanent basis.

Regarding the recognition of their union, Sir, Mr. Roy Chowdhury raised the point that there are other unions also with which outsiders are associated, that though the latter are not industrial unions of Government employees, yet they have secured recognition and, therefore, enquired Mr. Roy Chowdhury, why should not this union as well, which is a non-industrial union of Government employees, get recognition even if it chooses to have outsiders amongst its office-bearers. The point, Sir, is of course a question of degree. The real point to be taken into consideration is: to what extent the union purports to devote itself to union activities and to the conditions of service of the union members and also to what extent, outside the legitimate activities of the union, it dabbles in political matters at the instance of outsiders, which is reprehensible on the part of Government servants. Surely no one will contend, Sir, that Government is not entitled to lay down certain rules of recognition regarding the unions of its employees, and once these conditions have been laid down, such conditions should be followed by the employees if they want recognition from Government. It may be that in some particular instances Government may have relaxed the rules. That is a different matter. It is a matter which I have not yet considered, but if you really seek to get the patronage and recognition of Government, surely it is up to Government employees to see that the rules are observed. We have sent back to the union certain requisitions, namely, that we are prepared to recognise them if they conform to certain rules. They have not yet conformed to those rules, and that is the reason why up till now the recognition has been withheld. I think the honourable members realise that we do intend to promote the formation of trade unions; we are not against them at all. They must agree to Government rules and as soon as they do it, I have not

the least doubt that Government will grant recognition to these unions. I propose to look again into this matter, however, as Mr. Roy Chowdhury asks me to do and thereafter shall see to what extent we can meet the wishes of the unions as they are constituted so far. We are considering the conditions of service of these people. We have advanced to a very great extent. We have, as a matter of fact, made up our mind to make permanent this nucleus of work *sircars*, we propose to extend the benefits of permanent employment to them. We further propose to examine all the points which have been raised by Mr Roy Chowdhury, and I hope that in these circumstances he will be disposed to withdraw his resolution.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Sir, I thank the Hon'ble Minister for the assurance he has given that he will look into the grievances of the work *sircars* and also try and do something regarding the question of working hours and provident fund and pension. I do not agree with him on the point regarding the recognition of Government employees' union. Sir, he knows it himself as he was himself associated with employees' unions that the outsiders are helpful in organising *bonâ fide* constitutional trade-unionism. (The Hon'ble Mr. H. S. SUHRAWARDY: I agree that outsiders have got to be taken.) You should not like the old bureaucratic officers say that if outsiders join unions, there must be political exploitation. The Hon'ble the President of this Council was himself associated with Government employees' associations and nobody for a minute suggested that his inclusion was the Congressification of the trade unions. But, Sir, I must thank the Hon'ble Minister from the bottom of my heart, for the assurance he has given. In fact, he has made promises regarding the recognition of unions as well as pay and other conditions of work. I do hope, Sir, that he will look into the file which I think is with him and mark it with a red pencil that the file should be kept before him and do something in this direction within six months from now.

Sir, I beg leave of the House to withdraw my resolution.

Mr. PRESIDENT: Is it the pleasure of the House to permit Mr. Roy Chowdhury to withdraw his resolution?

(The resolution was then, by leave of the House, withdrawn.)

Mr. NUR AHMED: Sir, I beg to move that this Council is of opinion that the Government of Bengal be requested to encourage and help the fishery industry in all its aspects in Bengal and also to give effect to the recommendations of the fishery expert as embodied in his report published on the 12th September, 1938, as far as practicable.

Sir, this is a very simple resolution concerning a very important industry, namely, fishery. Fish is one of the most important articles of food of the majority of the people of Bengal, and there is no denying the fact that Bengal provides a unique field for the development of both open sea-fishing and inland fishery. The Public Health Commissioner with the Government of India in his report for the year 1935, states that the total land area in British India amounts to 2·44 acres per head of population, but allowing for the forests and uncultivated fallow lands it comes only to ·72 acre per head, which is under food crop. According to the census of 1931 agriculture has reached the maximum production under the present conditions. Fishery, therefore, is only the principal source of food-supply to supplement agriculture, and it is more so in Bengal, but in Bengal again fresh water fisheries are very expensive. Nowhere are there so many rivers, lakes, *jhils* and tanks, but in the rainy season the whole country may be regarded practically as a vast inland fishery. Estuaries of rivers and tidal creeks in the Sunderbans are additional sources of fish-supply and there is also an extensive sea-board. In spite of all this, however, the supply of fish is inadequate in this province to meet the demand; compared with the demand the supply is very small. On the other hand, demand for fish is growing day by day, but at the same time the supply is diminishing, with the result that the price of fish has gone up considerably in Calcutta and other towns in Bengal. And there is a report that the supply of fish is actually diminishing owing to the destruction of breeding fish fry and for want of attempts to breed them artificially. Sir, it is an admitted fact that rice and fish are the most important food to the majority of the people of Bengal, so much so, that about 80 per cent. of the people live on fish. Sir, attention was drawn to this most important aspect of the fishery industry in 1905 when Sir K. G. Gupta was deputed to make an extensive enquiry for the development of the fisheries of Bengal. He submitted his report in 1906-07 and suggested schemes of improvement with regard to fishery. He stated that there is a vast field of open sea fishery provided suitable crafts and motor boats are supplied by Government. There was at that time only one combined department of fisheries for Bengal, Bihar and Orissa. No important step was taken in accordance with the report of Sir K. G. Gupta. One launch only was purchased, and it was ultimately sold away: then depression set in and in accordance with the recommendation of the Retrenchment Committee of 1923 the whole of the Fishery Department was abolished.

Now, Sir, as I remarked in connection with another resolution, whenever the question of retrenchment is raised, it falls to the lot of nation-building departments. What happened was that as a result of the abolition of the Fishery Department the prices of fishes went up

considerably. After a long time Government has now awakened to its responsibility and appointed an expert from Madras Dr. Naidu, to make enquiry as to the potentiality of the fishing industry and to suggest ways and means as to how to bring about a reduction in the prices of fish, to suggest suitable means of marketing, etc. He submitted his report in 1938 which is, I think, now under the consideration of the Government.

I may say in this connection that the fishery industry has been considerably developed in Madras. I do not deny the fact that the Government of Bengal has taken some steps, and it has already provided Rs. 82,000 for the re-establishment of the Fishery Department. I think this is a move in the right direction, but the sum provided for this important industry is very small. It requires more money, because next to agriculture this is the most important industry which can be used for the benefit of the masses. At present about 4 or 5 lakhs of people of the Dacca and Rajshahi Divisions live by selling fish. Similarly, in other districts of Bengal a large number of people live by selling fish.

Sir, there are numerous tanks in the villages of Bengal which should be utilised and the village people should be encouraged to rear fish in these tanks. Fish is the most nourishing food for the people of Bengal, and there is no denying the fact that in Bengal fish-eating is common. It develops the human body, especially in the case of those human beings whose principal food is rice. In Madras small fishery factories have been established and their number is more than a hundred, and Government supplies salt to this factory at a concessional rate free of duty. From my own personal knowledge of Chittagong, I can say dry fish is being imported from Madras worth about 6 to 10 lakhs whereas Bengal which is at present in a very unique position for the development of the fish industry lags behind in this respect.

Sir, I think I should not take much time of the House over a subject which is well-known to all honourable members of this House. With these few words, Sir, I appeal to the House to accept my resolution.

Mr. PRESIDENT: Resolution moved: that this Council is of opinion that the Government of Bengal be requested to encourage and help the fishery industry in all its aspects in Bengal and also to give effect to the recommendations of the fishery expert as embodied in his report published on the 12th September, 1938, as far as practicable.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Mr. President, Sir, it was some years back under the régime of Sir Andrew Fraser, that a Fisheries Department was created under the Government of

Bengal, and Sir K. C. Gupta was appointed the Commissioner of Fisheries. He went into the question both of estuarine as well as marine fishery and submitted a report on the prospect of the development of the fishery industry in Bengal, particularly in the Chilka Lake and in the Bay of Bengal where fish was available in abundance. He was later succeeded by Mr. Ahmed, a Statutory civilian, and during his time a trawler was purchased by the Government of Bengal known as the *Golden Crown*. Those European members of this House who know this might also have heard of the work of this *Golden Crown*. The *Golden Crown* used to trawl in the Bay of Bengal and used to bring fish from the Bay of Bengal to the port of Calcutta. Some of the best specimens of *hilsa* and *bhetki* fish and other fishes were brought here and the officers of the *Golden Crown* tried to locate certain fish banks, like the Dogger Banks of the North Sea, in the Bay of Bengal. These reports I refer to are available in the Government office. Afterwards, Mr. Southwell was brought from Lancashire, who was doing very useful scientific investigation work on fisheries in England. This gentleman was brought here and placed in charge of the work. He went very deeply into the question of the economic importance of the *hilsa* fish. In fact, he spent several weeks catching *hilsa* fish, studying the biology of *hilsa* fish, and so on. He also studied the question of carp fish, what we call *rui*, *katla*, etc. The people of Bengal up to that time were under the impression that carp fish cannot be cultured in a tank, that is to say, they thought that without a flow of water carp fish and *hilsa* fish cannot spawn. Mr. Southwell disproved that theory. I had occasion to visit a couple of tanks that he utilized in Midnapore near Garbeta, and he proved actually that in two tanks where there is a channel between them and the water passes from one tank to another and hence they could spawn. Development of fish industry is most important in Bengal and I want to lay special emphasis on the question of the *hilsa* fish as an industry. I have had some occasion to study the question of salting and curing *hilsa* fish for export. The coast line from Chittagong to Midnapore is a long one and is suitable for a good many fishing bases. *Hilsa* fish can be had in enormous quantities in the mouth of the Sunderban rivers. They come from the Bay of Bengal through the estuaries to spawn in rivers, and they go back in certain seasons. The fries and young fingerlings travel as far as Benares and upward. In one or two places at the mouth of the Ganges and other rivers, such as Matwal river and Possor river, there are millions and millions of this fish which come up in shoals. They are almost of the same species as the herring fish of Europe. On one occasion I went in a motor boat to one of these Sunderban places and saw with my own eyes that the shoals of *hilsa* fish came and the area covered by them was about 1,000 feet in breadth

and 20 feet or more in depth. The fishermen were unable to have this shoal and in fact they do not often try to catch them because they cannot bring them fresh. They catch only a portion and salt them. Therefore, I request the Government to look into the question of transport of *hilsa* and other fish from the mouth of the Bay and supply the fishermen with modern nets and gears. The implements and nets they use are antiquated. These fishermen should be given proper facilities for transport, and I suggest that transport should be undertaken in Government motor boats. It is not only the question of transport, but ice should be sent in motor boats for the refrigeration of this fish. Fish is a very, very important article of food in Bengal. There is a saying that fish and rice are our life-blood. Unfortunately and most strangely, though we have the best kinds of edible fish of huge quantities in the Bay of Bengal and in the estuaries, we do not find enough fish to eat in Calcutta, and mufassil towns. In England, where the standard of living is so high, a large number of poor people who cannot afford to buy meat live only on cheap fish. The British drafters catch them, particularly herrings in abundance in the North Sea and corresponding to the herring fish there, we have superabundance of *hilsa* fish in Lower Bengal. *Hilsa* fish sells in Calcutta and in the mufassil at 6 or 8 annas a seer, and if this rate can be easily brought down to 2 annas to 4 annas per seer by Government enterprise, I think it will be a blessing to the people of Calcutta and other towns. Salted and cured *hilsa* has big markets outside India.

Sir, there is another aspect of this question of sea and estuarine fisheries. I travelled in trawlers in the North Sea. I talked to the fishermen of Grimsby and Hull there on the trawler, and I heard that these fishermen were the nucleus of the British Navy. Sir, these British fishermen are the sources of recruits for the mercantile and naval service. I think, Sir, by developing with State help the marine fisheries off the coasts of Chittagong, Noakhali, Barisal and Midnapore, we can do a great deal to lay the foundation of our Navy. The Nulias in Puri are persons who never care for the frowns of the sea. We in Bengal are afraid of the sea, because we have no experience of the sea. It is an admitted fact that the defence of India requires a national Navy and Bengalee fishermen should be trained for the Bengal Navy. If you encourage the sea-fish industry and if you give the fishermen training in marine, they will form the nucleus of our own Navy. Japanese fishermen were the foundation of the Japanese Navy. It is a very serious question. The Bengalee fishermen should be trained to go out into the open sea for deep sea-fishing and seek adventures in the sea, and the result will be that in the next generation they will be the defenders of our shores against foreign invasion by the sea.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSSAIN: Mr. President, Sir, in rising to support the resolution moved by my friend Mr. Nur Ahmed, I have only one or two remarks to make. Sir, we know that there was a Fishery Department existing in this province, and it existed for nearly 15 or 20 years, but that as a result of the Retrenchment Committee's recommendation, this Fishery Department was abolished—evidently because the work it did was not appreciated by anybody. As a matter of fact, it is found that although a Fishery Department existed for nearly 15 to 20 years, no legislation was passed even to protect the fish fry of Bengal or to enforce observance of a close season for fish. I think it is a scandal that a Fishery Department existed in this province for 15 years and yet no step was taken by legislation to protect the fry or the fish with eggs. Sir, I think that in pursuance of this resolution the very first thing that Government should do is to enact some legislation in order to protect the fry and also to enforce observance of the close season. That should be the very first step for giving encouragement to the growth of the fishery industry in this province. The next thing is that the department should try to increase the fish-supply of Bengal and make known to the people by what methods they were actually increasing fish-supply. The existence of the department should be felt by the people at large and its labours appreciated. The Fishery Department should not merely remain as a department in the Secretariat. People should know the results of its experiments and of its labours. We are very glad that Government has already taken up this question and has provided a sum of Rs. 82,000 in the budget, but at the same time we hope that the Minister in charge will see that some real good accrues out of the working of this department, and that legislation to protect the fry and for the observance of the close season is enacted at a very early date. With these words, I support the resolution.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I do not think there is any difference of opinion in this House so far as the object of the resolution is concerned, and I have no hesitation whatsoever in accepting it. The fishery problems of Bengal are of special significance in that the natural resources of the province for a fishery industry are unique among all the provinces of India. One-third of her extent at any rate in Lower Bengal is comprised of water areas and with her natural resources of both marine and inland water she can not only meet her own demands for fresh fish in full, but can also export a large quantity to other provinces. In this province more than 80 per cent. of the population are fish-eaters and fish is the staple food along with rice. Fishing should, therefore, be an industry next only to agriculture in this province. Government have legally the right of fishery in all the navigable rivers, but in the absence of a Fishery Department in this province the fishery rights of most of the

rivers and other navigable waters have been leased out to middlemen on a nominal *salami* and rent, whereas the lease-holders themselves realise high charges from the fishermen. All the fisheries in the Sunderbans south of Hodge's line are yet the property of the Government, and it is desirable that Government should resume the fishery rights of all rivers and reorganise them on efficient lines which will result in an increase in Government revenues, relief to the fishermen from the high charges that they now pay to middlemen and will also facilitate improved lines of fishing. This will also yield a reduction of the price of fish on account of the reduction of charges that the fishermen have now to pay.

The Government of Bengal established a Department of Fisheries on the basis of the report of Sir K. G. Gupta who was placed on special duty by Government in 1906 to make an enquiry into the fisheries of Bengal and its fish-supply. On the recommendation of the Bengal Retrenchment Committee, the Fishery Department in Bengal was abolished in 1923, not because a Department of Fisheries in Bengal was not wanted, but because it was not being efficiently run, there being no fisheries expert at the head of the department and the province having no financial resources to run it on efficient lines. Financial stringency can no longer be advanced as a ground for not having a department of fisheries in the province, and there is now a persistent public demand for such a department.

Since the abolition of the department in 1923, Government have been considering the question of its revival from time to time, and in 1937 it was decided to bring a fishery expert to investigate the existing condition of the fisheries in the province and to suggest a suitable scheme for the revival of the defunct Fishery Department. Dr. M. R. Naidu, an Assistant Director of Fisheries, Madras, was accordingly appointed for one year to carry on the above investigation.

Dr. Naidu conducted an enquiry and submitted a report in which he fully described the present position in regard to fisheries in the province and made various recommendations, making out a strong case for the establishment of a Department of Fisheries in the province. He has submitted a skeleton scheme at a capital expenditure of Rs. 2½ lakhs and an annual recurring expenditure of Rs. 1 lakh nearly. This is a rough estimate and may for the present purposes be taken as an indication as to what this department is likely to cost when fully developed. Dr. Naidu has given merely outlines of the schemes proposed by him, and it is necessary to work out the details before they can be put into operation for which it is necessary first to appoint a Director of Fisheries with a nucleus staff. It is accordingly proposed to start the Fisheries Department with a Director and a small staff under him with necessary equipment. So it will be seen that

Government has already decided to establish a Fishery Department and as my friend Mr. Nur Ahmed has already pointed out, a sum of Rs. 82,000 has been provided in the present year's budget for the establishment of such a department. Sir, when that department is established, we shall take into consideration the various suggestions that have been given on the floor of the House. Unless there is a fishery expert and unless there is a department, we cannot work out schemes in detail and cannot give effect to them. . In fact, the suggestions that have been given on the floor of the House to-day have already been given by Dr. Naidu and if any new suggestion comes to us that will be quite welcome to Government.

Then Sir, the question that has been raised by Khan Bahadur Muazzamuddin Hosain is very important. If some protection is not given to the fry and also if a close season is not observed, I think there is very great danger of our fish resources dwindling gradually, and ultimately Bengal will be faced with a serious situation so far as its fish industry is concerned. There are various other considerations which have to be taken into account and as soon as the department is established, we shall take up the question raised by my friend Khan Bahadur Muazzamuddin Hosain as well as various other constructive schemes, as far as practicable. With these words, I accept the resolution.

Mr. PRESIDENT: The question before the House is the resolution of Mr. Nur Ahmed: that this Council is of opinion that the Government of Bengal be requested to encourage and help the fishery industry in all its aspects in Bengal and also to give effect to the recommendations of the fishery expert as embodied in his report published on the 12th September, 1938, as far as possible.

(The resolution was agreed to.)

Mr. HUMAYUN KABIR: Sir, I beg to move that: this Council is of opinion that Government should immediately issue orders suspending, for this year, the project of demarcating plots of land for the cultivation of jute.

Sir, I think that this resolution requires at the very outset some clarification as to what I mean by the "project of demarcating the plots of land for the cultivation of jute." A great deal of criticism has been made both on the floor of the House and outside with regard to the jute regulation scheme of the Government and the Government themselves have admitted that the scheme, as it has been formulated this year, is full of grave defects. I do not want to go into the details about all these defects and criticisms at this stage, and I shall not refer to them any more than is necessary for the purpose of this resolution which is before the House to-day. I take my start from the admission

of the Government that their scheme was full of grave defects. Now, of these defects, three or four are such as to affect the interests of the peasantry most directly and in the most injurious manner. Of these, perhaps the first is the project of demarcating plots of land beforehand, in fact before the season has been determined. Now, the Hon'ble Minister and most of the members of this House who have anything to do with the jute-growing districts know that even the agriculturists cannot say beforehand what type of land can be cultivated at which time, before the rains have set in. If there are early rains, jute can be cultivated in certain types of lands; and if the rains set in at a later period certain other types of land have to be selected, but in the Government scheme, it was decided to define beforehand certain areas and demarcate some plots as the only plots on which the cultivation of jute could take place. This was one of the gravest defects of the Government scheme.

Another equally grave defect was with regard to the errors in survey and still another grave failing of the Government scheme was the failure to give effect to the Jute Regulation Amendment Act which was passed last year by this House on the explicit assurance of the Government that it would be given effect to that very year. As you may perhaps remember, Sir, it was the assurance of Government that they would give effect to the provisions of this amending Act this year that persuaded the House to pass it so rapidly. That Act, if I remember aright, Sir, received the assent of His Excellency the Governor some time in September, probably the 14th of September, 1940. If I remember aright again, Sir, in spite of this early assent, the excuse was brought forward by the Ministers that there was no sufficient time to give effect to the provisions of this Amending Act. If that Act had been applied, many of the difficulties of the cultivators in the jute-growing areas could have been overcome. In the original scheme, there was no provision in respect of those lands on which any crop other than jute is not cultivable and the Amending Act sought to rectify this. There are certain other difficulties with regard to these matters which also the Amending Act sought to remedy, and yet it was not applied.

I would here like to point out that very largely as a result of our criticism and also as a result of the agitation which has been going on both inside and outside the Legislature, some of the defects in this regulation scheme have been remedied. The particular point with which I am concerned in this resolution has been only partially met by the Government by issuing orders that cultivators can sow jute in any plot they like, provided they keep within the area which has been allotted to them under the regulation scheme, provided they did not exceed the limits imposed by their licence and provided further that they informed the authorities within three days of such cultivation in

a different plot. These orders, Sir, have to a large extent remedied one of the gravest defects in the jute regulation scheme and to that extent we are thankful to the Government for having accepted the very strong demand which was voiced from the different sections of the House and the different sections of the people of the country.

But, Sir, there are still certain other defects in connection with this regulation scheme which deserve correction, and I think Government will be wise in the interests of the jute cultivators as well as in the interests of the province as a whole and perhaps of the Government itself to make these further corrections. One of these is the question with regard to the right of cultivation of those who hold lands of other people on *barga*. As the scheme now stands, these people have no right whatsoever to cultivate jute, and it is probable that there may be very grave disturbances in the rural areas of Bengal if the *bargadars* are not allowed to sow any land. We have always stated——

The Hon'ble Mr. TAMIZUDDIN KHAN: On a point of order, Sir. How these things arise? The resolution before the House raises objection to the demarcation of plots, but the rights of *bargadars* and other things, I submit, do not arise.

Mr. HUMAYUN KABIR: Sir, I shall show in a moment that they are inter-connected with the question of the rights of the *bargadars* and of demarcating plots. If in certain areas, plots which were habitually given to the *bargadars* to cultivate jute, were entered for the cultivation of jute by *bargadars* as was done in the past, then these difficulties would not have arisen. Under the orders issued by the Government, these plots were demarcated in the name of the owners and not in the name of the persons who have been actually tilling them for a long time. Recently, the Government have been following a strange policy of not allowing criticism of the jute regulation scheme, and though Government themselves have admitted on more occasions than one that there are defects in the scheme, they would not allow others to criticise the scheme. As I said a moment ago, some of the defects have been remedied and for this we are grateful to Government. These defects, Sir, were corrected as a result of public criticism. It is a strange procedure that the Government has adopted that though they are in the wrong, yet they will not allow others to point out where the mistakes are, so that they may be rectified. Some defects have been corrected after persistent criticism from the public. Therefore, I think, Sir, that the point of order which was raised by the Hon'ble Minister is not really well taken, for the question of demarcation of plots is connected with the question of the right of the *bargadars*. I would urge upon the Government, and they have already partially met the

public criticism by issuing orders that the plots can be changed. I want them to go a little further and say that so long as the cultivators keep within the areas which are allotted to them in the licence, the question of demarcating need not arise at all. If they can now make provision for the *bargadar* and also exempt the small cultivators from the operation of the scheme, some of the gravest defects of the jute regulation scheme will be remedied and that is the main rason why I have tabled this resolution. Government have partly met our objection, and I hope they will meet the remaining portions of our objection.

Mr. PRESIDENT: Resolution moved: that this Council is of opinion that Government should immediately issue orders suspending, for this year, the project of demarcating plots of land for the cultivation of jute.

The Hon'ble Mr. TAMIZUDDIN KHAN: Mr. President, Sir, my honourable friend Mr. Humayun Kabir has moved this resolution in a half-hearted manner. He admits that Government has already met the main objections that were raised by various people in the country and therefore the difficulties that were there have been greatly removed. Therefore I do not think, Sir, that a resolution like this is at all necessary at this stage. In this resolution he takes objection only to the demarcation of plots and asks why should plots be demarcated? The object was obvious. This is a new experiment of great magnitude. Our cultivators were never accustomed to any restrictions in the matter of growing crops. Previous to this they had absolute freedom in sowing any crop they liked. For the first time in Bengal it is being enforced that they can sow jute on a particular area of land and on no more. This is from one point of view a curtailment of their rights, but this curtailment is in their own interest and for the interest of the province as a whole. Now, if this regulation is to be enforced, unless the lands were demarcated, there was every danger of the cultivators avoiding or evading the direction of the law. If the lands on which they are permitted to sow jute are demarcated, then they can hardly overstep the limits of that particular plot. This will facilitate the enforcement of regulation to a very great extent. I think, Sir, this is a point which can easily be seen. My friend has said that Government has admitted that the scheme has grave defects. But, Sir, Government has never admitted that the scheme as a whole has any defects. The only defects that have been pointed out hitherto by my friend Mr. Humayun Kabir and others like him are that the record of jute lands which was made by Government was not quite correct and that there were mistakes of various kinds in the record. That, Sir, however, is not a defect of the scheme, that shows on the contrary that something was wrong in a partial way

in the execution of the scheme. I have pointed out on various occasions that in a gigantic operation like this there could not but be a certain percentage of mistakes. It was in this House that the Jute Regulation Amendment Bill was first passed. When that Act is enforced, then the mistakes that are in the record will be fully rectified. My friend has already pointed out that Government have taken steps in advance and most of the mistakes are going to be rectified or have already been rectified. Very elaborate instructions have been issued for rectification of mistakes. The direction that has given rise to Mr. Humayun Kabir's resolution was, I think, misunderstood. It was never decided or directed by Government that the cultivator should be prevented from rotating his land; Government never said that he was absolutely debarred from sowing jute on some other land in lieu of the land for which he had got a licence, if circumstances demanded such alteration. The only stringency in the rule was that the cultivator had to apply for rotation within a certain time. This created a good deal of hardship, because the cultivators, illiterate as they are, could not generally come to know of these directions in time and if those directions were not altered, many cultivators would have found it difficult to alter their plots. This time-limit has now been altogether abolished and the cultivator will be entitled at any time to alter his plot, but it would be at his own risk; it would be to the interest of the cultivators themselves to apply in time, because if they applied very late, it might be difficult to get the alteration effected within a short time, and by the time orders are obtained the sowing season may be already too far advanced. Therefore, the cultivators should be well advised to take early steps for the alteration of their plots if they consider it necessary. I do not think, Sir, I have very much more to say, but I do not think that my friend Mr. Kabir's reference to *bargadars* has any connection with this resolution. His objection is that a jute land which was held by a *bargadar* in 1940 should have been recorded in the name of the *bargadar* himself. Under the present Bengal Tenancy Act that could not be done because under this Act the *bargadar* has no right whatsover in the land he tills. The owner of the land can take away the land at any time he likes from him. Therefore, the *bargadar* who held a certain land in *barga* in 1940 may not get that land under *barga* from his landlord in 1941. So, if that land were recorded in the name of the *bargadar*, not only would that have been unjust to the owner of the land, but it would also lead to a great deal of confusion. If my friend has any objection on that score, it would be for him to induce the country as a whole to give proprietory rights to the *bargadars*, and I think my friend will find that to be a difficult task. I therefore think that the question of demarcation has no connection with the rights of *bargadars*. The *bargadar* has no right under the present law and the land could not be recorded in the name

of the *bargadar*, and if these lands are demarcated this can have no earthly connection with the *bargadars*. So I think this resolution has no force under present circumstances. With these words, I oppose this resolution unless my friend withdraws it.

Mr. HUMAYUN KABIR: Sir, in moving my resolution I did not discuss the subject raised by the Hon'ble Minister in such details, as I thought it did not come directly within the purview of my resolution, and I would not have have mentioned it now had it not been referred to by the Hon'ble Minister.

The schemes prepared by the Government, as stated by the Hon'ble Minister here and elsewhere, have many defects. For example, there is no provision with regard to the minimum price of jute, there is no adequate provision for marketing facilities, there is no arrangement for storage of jute, etc. Thus, in many respects the scheme which has been placed before the country is defective. I need not go into details and, as a matter of fact, in moving my resolution, I wanted to be more relevant to the resolution than the Hon'ble Minister has proved.

With regard to the point raised by the Hon'ble Minister regarding the right to rotate crops, the latter part of his speech is contradictory to the earlier part. He started by saying that control without demarcation would not be possible and yet almost immediately after, he found it possible to say that rotation has not been prohibited and even though a particular plot is demarcated, still the cultivator could now apply for a change or could sow jute in any other land. In that case, Sir, the whole question of demarcation immediately falls to the ground, and that is the precise point over which we have been agitating. We find also, Sir, that even the Hon'ble Minister himself has felt it necessary to say that alteration of the orders was necessary: if the earlier order allowed rotation, why were the latter orders necessary? Because under the earlier provisions, even though the land may be altered and the crop rotated, it could be done only within a certain time and this time-limit was fixed long before the jute-sowing season.

Then, Sir, it has been said that rotation could now be taken up after the proper season sets in. It may be remembered, Sir, that the resolution was sent at a time when the change had not taken place, and I have no doubt that it was partly the agitation and pressure inside and outside this House which persuaded Government to make this alteration. Sir, this is a point which the Hon'ble Minister did not make clear in his speech.

Then, Sir, with regard to the question of *bargadars*, I do not think the Hon'ble Minister has made the position quite clear. So far as the *bargadar* is concerned, we think he should get rights in lands. At

the time when the Bengal Tenancy Bill was discussed in this House, we did move that the under-tenant or *bargadar* who has been cultivating the land should be given rights in the land, and we shall always try to do so. But the Hon'ble Minister has not made this point quite clear. Even if the *bargadar* has no rights——

Mr. PRESIDENT: You already spoke about it in your main speech, and so you need not refer to it again.

Mr. HUMAYUN KABIR: Sir, there is one point which I did not make in my main speech. The Hon'ble Minister has said that the *bargadar* has no rights in the land and, therefore, the land could not be recorded in his name. But where the *bargadar* was actually tilling the land, he might be given the right which would be one-third in relation to the land which he was cultivating.

Mr. PRESIDENT: The Hon'ble Minister has pointed out that there is no guarantee under the provisions of the Bengal Tenancy Act, as it stands at present, that in the coming year the *bargadar* will get the self-same plot of land in *barga* or any plot of land at all.

Mr. HUMAYUN KABIR: Sir, if the *bargadar* is given a general right over a certain area without specifying any particular plot, the likelihood is that he would be able to persuade some owner to give him a particular plot of land to till. In the case of the owners also, there are fairly severe restrictions of the area of their land and so the *bargadar* would be able to secure some land. That is my point, and if some such provision is made, one of the purposes of my resolution would be partially met. If the Government had met it fully, I would have no objection to withdraw my motion, but since the Government are not prepared to meet it fully but are only prepared to meet it halfway, I do not think I can withdraw my resolution.

Mr. PRESIDENT: The question before the House is the resolution of Mr. Humayun Kabir: that this Council is of opinion that Government should immediately issue orders suspending, for this year, the project of demarcating plots of land for the cultivation of jute.

(The resolution was negatived.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move that: this Council is of opinion that in order to encourage the industries of the province the Government of Bengal should purchase all articles of furniture, stationery, uniforms and other articles required

for Government offices and institutions or for Government purposes in any department of Government from locally manufactured articles of Bengal, if available.

Sir, in moving this resolution I have to invite the attention of the House to the very precarious economic condition of the people of Bengal. Sir, we know that 77 per cent. of the population of Bengal have to depend on agriculture and the pressure of the population on land has become so great now that it cannot afford to keep all the people who are now unemployed engaged in the cultivation of land. There must be some outlet for a portion of the population so that they might earn their livelihood in some other way. Sir, this point was discussed in the Floud Commission's Report, I mean in the Report of the Land Revenue Commission, and they had found that the average gross income per head of an agriculturist of Bengal was only Rs. 43. The Commission had calculated and found one-third of this gross income as cost of cultivation and if this be deducted from Rs. 43, we get only Rs. 28 and some annas as the average income of a Bengalee agriculturist. If we leave aside the better class of agriculturists who have got economic holdings, the condition of the average agriculturists or the poor class of agriculturists who form more than 60 per cent. of the population will be very miserable. Their average income will be only less than even Rs. 20 and which will work out at Re. 1-8 or Re. 1-12 per head per month. Sir, Government should consider this problem. The Floud Commission recommended that unless something be done for the relief of the agriculturists, their condition will be still more miserable and precarious. They had found in view of the pressure of population on land that it is obviously desirable to encourage industrial developments with the object of diverting part of the population from agriculture to industry. That is one of their findings, and in this connection they definitely said that the development of the factories in rural areas and of cottage industries seemed to offer the best possible avenue, provided that private capital which is notoriously shy of industrial ventures be forthcoming in Bengal. But the Government should take the initiative and this can be done by purchasing a certain percentage of the shares or by guaranteeing dividends up to a certain limit. This recommendation, Sir, is in line with the recommendation in my resolution. They recommend that the Government should purchase a certain percentage of shares of local industrial concerns in order to give encouragement to the industries of Bengal. Sir, mine is a more modest resolution. I only wish in this resolution that the Government should purchase their own requirements from the manufactured articles of Bengal, if available, in preference to foreign articles. Sir, again I say this is a very modest resolution, and it is meant only to encourage industries in this country without which the bread problem of the country can never be solved. Sir, I hope that this is a very modest resolution with regard to

which there will be no difference of opinion in the House. I hope the whole House will support the resolution.

With these few words, Sir, I commend my resolution to the acceptance of the House.

Mr. PRESIDENT: Resolution moved: that this Council is of opinion that in order to encourage the industries of the province the Government of Bengal should purchase all articles of furniture, stationery, uniforms and other articles required for Government offices and institutions or for Government purposes in any department of Government from locally manufactured articles of Bengal, if available.

Mr. NUR AHMED: Sir, I beg to move that in the resolution just now moved by my honourable friend Khan Bahadur Saiyed Muazzamuddin Hossain, after the words "should purchase," the words "as far as possible" be inserted.

Sir, as regards the principle underlying this resolution there are no two opinions. Sir, the development of the industries of this province is necessary for the good of the masses. It appears from the latest report on this subject that out of the total income of Rs. 80 per head, Rs. 58 comes from land and Rs. 22 from industry. It also appears from the successive census reports that the number of agriculturists or those who live on the profits from land is increasing from one census to another census. In 1882 the percentage of agriculturists was only 58, but during the years, from 1882 to 1931, the percentage has increased to 72. Denmark is an agricultural country and what do we find in Denmark? We find in Denmark that there is a decrease from 72 to 57 per cent., whereas in India this has increased from 58 to 72. So far, the necessity for encouragement of industries in all aspects will be admitted by all. It is also an admitted fact that the system of local purchase goes to a great extent to encourage local industries, and it is now realised that there are some furniture and other articles which can be purchased locally. There are many places in Bengal which are famous for one thing or other. Many Commissions have strongly recommended the local purchase system, but effect has not been given yet to those recommendations. There may be some difficulty in giving effect to this resolution in some localities where the prices may be high, but there are other localities where the prices may be low, and nothing will stand in the way of Government purchasing articles locally. So, my suggestion is that the word "as far as possible" should be added, so that there may not be any difficulty at all.

Mr. PRESIDENT: Amendment moved: that the words "as far as possible" be inserted after the words "should purchase" in the third line of the resolution.

Mr. HUMAYUN KABIR: Sir, I beg to oppose the amendment and support the original resolution for two reasons. Firstly, I think that the amendment is altogether unnecessary and redundant, for the resolution as it has been moved by my honourable friend Khan Bahadur Saiyed Muazzamuddin Hosain already provides for such possibilities. His resolution is a very modest one and he has himself characterised it as such. I do not think there is any member in this House who does not want that there should be some Government encouragement to local industries and Khan Bahadur Saiyed Muazzamuddin Hosain has already suggested that Government should purchase articles locally so far as available. Well, Sir, already there is "so far as available" and I do not think any further qualification is necessary. Sir, my second objection is that Mr. Nur Ahmed's amendment wants to take away the little strength which the resolution has and make the resolution doubly qualified. Sir, it takes away the force contained in the original resolution.

The resolution as it stands is, I think, good enough for this House and if we have any criticisms to make against it, it is that it does not go far enough. The Government should be compelled to buy articles of local manufacture wherever available, and I think it is the practice of every Government in every country in the world to encourage local industries, and I have no doubt that the Bengal Government will be prepared to do the same thing. The resolution only asks Government to do that. With regard to articles not available locally, it has already made an exception. Therefore, Sir, the amendment is redundant; in fact, it is a misjoinder so far as the resolution is concerned, for it makes the resolution unmeaning and pointless.

The Hon'ble Mr. TAMIZUDDIN KHAN: Mr. President, Sir, I have no objection to accept the resolution in the form in which it is sought to be amended by my friend Mr. Nur Ahmed. I think that on another occasion I stated the present policy of the Government so far as this question is concerned, and I may reiterate it on the floor of the House to-day. The policy of the Government is to make their purchases of stores in Bengal in such a way as to encourage the development of industries in this country to the utmost possible extent consistent with economy and efficiency. The departments of the Government of Bengal and officers specially authorised in this behalf may, when they are satisfied that such a measure is justified, allow a limited degree of preference in regard to articles produced or manufactured in Bengal, or alternatively, elsewhere in India, either wholly or in part. I may also state that all these officers have been authorised to exercise the power of granting the preference up to a limit of 5 per cent. in respect of prices. The following are the officers so authorised:—the Inspector-General of Police, the Director of Public Instruction, the Director of

Agriculture, the Director of Industries, the Surgeon-General with the Government of Bengal, the Director of Public Health, Superintending Engineers, Public Works and Irrigation, the Director of Land Records, the Commissioner of Police, Calcutta, the Inspector-General of Prisons, Bengal, the Superintendent, Cinchona Cultivation, the Superintendent, Bengal Government Press, the Engineering Superintendent, Government Dockyard, Narayanganj, the Principal Officer, Mercantile Marine, the Conservator of Forests, the Chief Engineer, Public Health, the Veterinary Adviser to the Government of Bengal, the Superintendent, Royal Botanic Gardens, and the Principal, Bengal Veterinary College.

This, Sir, is the present policy of Government. Mr. Humayun Kabir says that if the amendment of Mr. Nur Ahmed is accepted, then the resolution will lose all its force. I do not think so, Sir. On the other hand, the amendment is very necessary. This resolution also comprehends the purchase of stationery articles. So far as these are concerned, stores required by the Government of Bengal as well as by other Provincial Governments are purchased through the Government of India's Stationery Office in Calcutta under the control of the Stationery and Printing Department of that Government. The Central Government also have a similar policy, viz., to encourage the purchase of indigenous goods, but in their case they naturally do not emphasise that these goods should be produced in any particular province. They look at the thing from the point of view of the whole of India. Therefore, so far as stationery goods are concerned, we are at this disadvantage. Then, again, my friend says, wherever available, Government should always purchase indigenous articles irrespective of price and irrespective of quality. If that is done, it will be unfair to the public, the rate-payers of Bengal in many instances. Of course, whenever any indigenous article is found to be of the proper standard and price, Government should in all possible ways encourage the purchase of such an article. But supposing the articles are not of the required standard, and the standard is very much below the required standard, and Government goes out of its way to purchase such articles irrespective of price and quality, that means throwing unjustifiable additional burden on the rate-payers. Of course, that burden can be placed to a certain extent and for that purpose the departmental heads have been given power to give preference up to the limit of 5 per cent. But in excess of that it would mean an unfair burden on the rate-payers. Therefore, the amendment that has been moved by my friend Mr. Nur Ahmed is very necessary, and I am prepared to accept the resolution with this amendment. I may further say that although the resolution is being dealt with by me, purchases are made by the various departments of Government, and I have no doubt that in all the departments the policy which I have already stated is being followed. But I think it will be

for the Government as a whole to see how far this policy is being actually followed. I can assure the House that I shall take up this matter with my colleagues and see that the policy of encouraging indigenous industries are given effect to in the fullest possible extent by the Government.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, although personally I am not entirely in agreement with the amendment which has been moved by my friend Mr. Nur Ahmed, I had to yield to the collective wisdom of our Party, and I cannot but accept the amendment. I have, however, one or two observations to make in this connection. The Hon'ble Minister has said that so far as articles of stationery are concerned, Government have no option but to purchase them through the Government of India. But I would like to know whether it is not possible for the Provincial Government to make a representation to the Government of India to allow the Provincial Government to purchase indigenous articles manufactured in Bengal or whether they cannot request the Government of India to purchase articles required for the Government of Bengal from the manufactured articles of Bengal. If that is possible, I would request the Hon'ble Minister to make such a representation to the Government of India. This resolution, Sir, does not go any further if it is qualified by the words "as far as possible." But at the end the Hon'ble Minister has been pleased to say that he will see that more encouragement is given and that he will influence his colleagues to see that in all departments more encouragement is given by purchasing locally manufactured articles. Sir, in this connection I would request the Hon'ble Minister to consider if he cannot issue an order for keeping an account of the articles purchased locally, I mean an account of locally-manufactured articles and other articles purchased annually, so that from that return we can see how far the wishes of Government are being carried out in actual practice; otherwise, Sir, it would remain merely a pious wish and things will go on as they are going now. So I think I may ask if the Hon'ble Minister cannot issue an order by which all the departments may be required to submit annual returns showning the articles of local manufacture and of articles purchased from abroad. If this is done, it will help us to elicit information by Questions from time to time and find out if real encouragement is being given to our industries by the Government by purchasing their own requirements from locally manufactured articles. With these words, Sir, I would ask the leave of the House to withdraw my original resolution, and I command the amended resolution for the acceptance of the House.

Khan Bahadur ATAUR RAHMAN: May I with your permission speak on this resolution though I am rather out of time?

Mr. PRESIDENT: After the reply by the mover, it is not the practice nor is there any provision to allow any other member to speak on this resolution.

The question before the House is the resolution of Khan Bahadur Saiyed Muazzamuddin Hosain: that this Council is of opinion that in order to encourage the industries of the province, the Government of Bengal should purchase all articles of furniture, stationery, uniforms and other articles required for Government officers and institutions or for Government purposes in any department of Government from locally manufactured articles of Bengal, if available.

Since which the following amendment has been moved by Mr. Nur Ahmed: that the words "as far as possible" be inserted after the words "should purchase" in the third line of the resolution.

The question before the House is: that the amendment be made.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that this Council is of opinion that in order to encourage the industries of the province the Government of Bengal should purchase, as far as possible, all articles of furniture, stationery, uniforms and other articles required by Government offices and institutions or for Government purposes in any department of Government from locally manufactured articles of Bengal, if available.

(The amended resolution was agreed to.)

Khan Bahadur ATAUR RAHMAN: Sir, I beg to move that: this Council is of opinion that the Government should appoint a committee consisting of experts and six members of the Legislature to investigate into the effect of embankments and other obstructions to the water-ways and drainage in the province.

In moving this resolution, I beg to say that it is well known to all that flood has become practically an annual visitation to some part or parts of the province almost every year, and this flood and the water-logging of the province has practically ruined the climate and the productiveness of the province, so much so that though Bengal was supposed to be the granary, yet in the report of the Director of Agriculture this year it appears that she has produced rice to such an extent which will not be quite enough for six months' consumption of the people. The report says that it has only 4 million tons of rice this year, although for 50 million of population according to the census of 1931 we require about 10 millions tons. As to the climate, malaria practically to be seen in every part of the province, though this was not known before these obstructions to the waterways came in, which is a historical fact, and it is already in many of the Government reports

and the opinion of many experts of the Health Department of the Government. So I am not suggesting anything of my own ideas. Let us take the case of the railways, for instance, the Sara-Sirajganj Railway. If any one travels in that railway, he will find the lefthand side of the railway is about 3 feet higher than that of the right-hand side. This sort of obstruction is causing serious deterioration to the waterways and drainage in the province. It is very urgent that Government should take steps to find out the root cause of the deterioration of the climate and productivity, and in spite of opposition from vested interests, they should remove these obstructions as early as possible otherwise the country, or at least some parts of Bengal, will be deserted or will be of no use for human habitation. With these few words, Sir, I move my resolution for the acceptance of the House.

Mr. PRESIDENT: Resolution moved: that this Council is of opinion that the Government should appoint a committee consisting of experts and six members of the Legislature to investigate into the effect of embankments and other obstructions to the waterways and drainage in the province.

Mr. NUR AHMED: Sir, I beg to support this motion. It is found that every year there is a flood in Bengal which is generally believed to be due to some defects of embankments or to obstruction of drainage or otherwise. The expert opinion of Mr. Bentley, who held a very high post in the Bengal Government and who was a real well-wisher of the people of Bengal, is that the obstruction of drainage by high embankment and construction of railway culverts and bridges is the cause of malaria. Of course, now there are many bridges and many highway roads that are practically the causes of malaria. He was deliberately of this opinion, and this was the opinion of a high personage like Mr. Bentley who identified himself with the welfare of Bengal, that this matter should be investigated and Government should come to a definite conclusion in this matter for the good of the people of Bengal. Recently, last year when there was a flood at Chittagong, the people there were of opinion that this was due to the bridge over the Karnafuli river. In view of all this, I should like that Government should do something in this matter.

Mr. PRESIDENT: The Council stands adjourned till 2-15 p.m. on Monday, the 24th instant.

djournment.

The Council then adjourned till 2-15 p.m. on Monday, the 24th March, 1941.

Members absent.

The following members were absent from the meeting held on the *21st March, 1941*:—

(1) Khan Bahadur Naziruddin Ahmad.
(2) Mr. Kader Baksh.
(3) Rai Bahadur Keshab Chandra Banerjee.
(4) Mr. Shrish Chandra Chakraverti.
(5) Mr. Hamidul Huq Chowdhury.
(6) Khan Bahadur Rezzaqul Haider Chowdhury.
(7) Mr. Lalit Chandra Das.
(8) Mr. Bankim Chandra Dutt.
(9) Mr. Narendra Chandra Datta.
(10) Mr. Kamini Kumar Dutta.
(11) Khan Bahadur Alhaj Khwaja Muhammad Email.
(12) Mr. Kanai Lal Goswami.
(13) Mr. Mohamed Hossain.
(14) Khan Bahadur Syed Muhammad Ghaziul Huq.
(15) Khan Bahadur M. Abdul Karim.
(16) Maulana Muhammad Akram Khan.
(17) Mr. Naresh Nath Mookerjee.
(18) Dr. Radha Kumud Mookerjee.
(19) Mr. Ranajit Pal Chowdhury.
(20) Dr. Kumud Sankar Ray.
(21) Mr. J. B. Ross.
(22) Mr. Sachindra Narayan Sanyal.
(23) Dr. Kasiruddin Talukdar.
(24) Mr. J. McFarlane.

B. G. Press—1941-42—1520A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Monday, the 24th March, 1941, at 2-15 p.m., being the seventeenth day of the First Session, pursuant to section 62 (*2*) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Moslem female education at Chittagong.

62. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if it is a fact that a representation by the leading Moslems of Chittagong has been submitted to the Hon'ble the Chief Minister, Bengal, for raising the status of the Gulzer Begum Moslem Middle English School at Chittagong to that of High English Moslem Girls' School and for the maintenance of the same at Government cost for the benefit of Moslem female education?

(*b*) If so, what steps have the Government taken to meet this urgent need of the Moslems of Chittagong? Do the Government propose to raise the status of the school to that of Moslem High English School and take over the management of the same? If not, why not?

(*c*) Is it a fact that there is a great demand for higher Moslem female education at Chittagong? If so, do the Government propose to meet this demand in any other way?

(*d*) Is it a fact that Khan Bahadur Badiar Rahman, Assistant Director of Public Instruction, visited Chittagong towards the middle of November, 1940, and inspected the Khastgir Girls' School, the Chittagong College, and also the vernacular training school in connection with the proposed girls' college as well as improvement of Chittagong College?

(*e*) Is it a fact that the scheme for the above projects are still pending with the Government?

(*f*) If so, how far have these projects matured, and at what stage do they stand now?

MINISTER in charge of the EDUCATION DEPARTMENT (the Hon'ble Mr. A. K. Fazlul Huq): (*a*) The Secretary of the school has submitted to the Director of Public Instruction, Bengal, a scheme for

the raising of the status of the Gulzer Begum Middle English School at Chittagong to that of a High English School for Muslim Girls on a grant-in-aid basis.

(*b*) There is no question of Government taking over the management of the proposed high school. The authorities have prepared the scheme on a grant-in-aid basis.

(*c*) There is a demand for secondary education for Muslim girls at Chittagong and it is met by the existing educational institutions. Assistance is rendered where necessary with the money available.

(*d*) The Assistant Director of Public Instruction for Muhammadan Education visited some educational institutions at Chittagong in November last, but not with any definite scheme in view.

(*e*) The question of improvement of girls' education as well as of the Chittagong College is under the consideration of Government.

(*f*) The Communications and Works Department of Government are taking the necessary preliminary steps.

Agreement between the Government of Bengal and the Indian Jute Mills Association.

83. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state if it is a fact that the Government of Bengal at the instance of the Government of India have entered into an agreement with the Indian Jute Mills Association for purchase of some stipulated lakhs of jute bales by the 15th April, 1941?

(*b*) If so, what are the actual terms of this agreement?

(*c*) Is it a fact that the said Association have not on their part adhered to the terms of the said agreement and are not purchasing jute bales as stipulated in the agreement and are not acting as buying-agents also?

(*d*) Are Government taking steps to see that the stipulated purchases are made by the jute mills according to the terms of the said agreement?

(*e*) Is it a fact that the Government have not called for authentic figures of purchases made by the mills Association since the agreement was made?

(*f*) Will Government please make an enquiry and ascertain if it is a fact that most of the business done by the mills was for European packing and their own agency-purchases and that the mills are not purchasing Indian packed jute in any large quantities?

(*g*) If so, what steps have the Government taken and do they propose to take to compel the mills to strictly fulfil the terms of the said agreement? If not, why not?

(*h*) Is it a fact that the price of jute is still low?

(*i*) Is it a fact that the existing jute Futures Market is a speculative body?

(*j*) Is it a fact that the Government of Bengal has engaged Professor John A. Todd to examine the rules and regulations of the present Futures Market?

(*k*) Is it a fact that the said Professor has submitted an interim report wherein he has suggested some rules for the formation of Jute Futures Market on sound lines?

(*l*) If so, what are his suggestions and do the Government propose to provide a Futures Market as suggested by him? If not, why not?

MINISTER in charge of the AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) As a result of the Conference convened by the Government of India and held in Delhi on 4th and 5th December, 1940, an agreement was arrived at between the Government of Bengal and the Indian Jute Mills Association.

(*b*) A statement containing the terms of the agreement is laid on the Table.

(*c*) It will be observed from the terms of the agreement that the mills have not guaranteed to purchase any stipulated quantity during any given period. They have undertaken to do their utmost to purchase certain specified quantities. Up to 15th February, 1941, mills had purchased roughly 22 lakhs of bales out of the 25 lakhs specified.

The Indian Jute Mills Association will only act as purchasing agents when called on by Government to do so. Government have not as yet called on them.

(*d*) Does not arise.

(*f*) No enquiry is necessary. Government are already aware that purchases of Indian packed jute have not been as large as those of European packing.

(*g*) The agreement does not specify what packing, whether European or Indian, shall be purchased and no question of compulsion arises.

(*h*) Compared with the level of prices when the agreement first came into operation, the present level of prices is low.

(*i*) to (*l*) Professor Todd was engaged on an investigation into the organisation and working of the Futures Markets in Calcutta. He has now submitted his Interim Report on this subject and has made certain

recommendations for the complete reorganisation of the Futures Markets on a new basis. He has not suggested any detailed rules but only general principles for a reorganised Market. Professor Todd's report, a copy of which is placed on the Library table, is now under consideration.

Statement referred to in the reply to clause (b) of question No. 63, showing the Terms of Agreement with Indian Jute Mills Association.

(1) The Mills will do their utmost to purchase jute during the period ending April 15th, 1941, according to the following programme:—

By 15th January	...	15 lakhs bales.
By 15th February	...	25 lakhs bales.
By 15th March	...	32½ lakhs bales.
By 15th April	...	37½ lakhs bales.

(2) This will be exclusive of any jute of quality lower than "bottoms" other than cuttings, "bottoms" to be defined as jute containing not more than 70 per cent. of sacking weft.

(3) The jute to which the programme applies will be bought at prices not lower than those suggested by the Association in their letter to the Government of Bengal, No. 7155-D., dated 6th November, 1940, excluding that suggested for a grade of "low bottoms" which will not be introduced. The basic minimum prices for loose jute are:—

	Per maund.	
	Middle.	Bottoms.
	Rs. a.	Rs. a.
Indian district	... 7 12	6 0
Indian Jat	... 8 4	6 8
European packed	... 8 8	6 12

Unassorted Daisee in drums—Rs.6 per maund.

(4) Jute excluded from the buying programme under (2) above will be subject to no price agreement.

(5) If in any of the four periods referred to in the above buying programmes the mills are unable to purchase the full amount stipulated, and if prices have not arisen by more than 4 annas per maund above the

agreed minimum prices referred to in (3) above, the Association will arrange to purchase jute up to the stipulated totals on behalf of Government on the following terms:—

(*i*) The Association will act as agents for all Government purchases, ensuring that qualities are according to standard and such as can reasonably be utilised in mills' manufactures and therefore marketable.

(*ii*) The Association will arrange for the mills to give storage facilities for the jute, for a period which will not exceed 18 months except by mutual agreement.

(*iii*) Mills which give storage facilities will be paid a godown rent of 1 anna per maund per annum.

(*iv*) The Government will be responsible for insurance against all risks, to the extent that they may wish to have this effected, and will take all responsibility for deterioration, wastage, loss of weight and risk of failure to recover under sellers' guarantees for defects.

(*v*) The Government will be responsible for actual inward and outward handling charges except in respect of jute sold to a mill in which it is stored on their behalf.

(*vi*) The mills will make no buying charges.

(6) The Government will be responsible for the financing of purchases effected on their behalf, subject to any arrangement that may be made on a voluntary footing with mills under which they will participate in such financing or relieve Government of it altogether.

Mr. NARESH NATH MOOKERJI: Sir, there is a short-notice question tabled by Mr. Lalit Chandra Das regarding the riot situation at Dacca. Will Government please make a statement about it? I understand, Sir, that the reign of terror is still going on——

Mr. PRESIDENT: Order, order. The Hon'ble Mr. A. K. Fazlul Huq is going to make a statement.

Statement regarding Resolution passed for provision of one crore of rupees for Primary Education in Bengal.

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, in accordance with the provisions of sub-rule (*2*) of rule 95 of the Bengal Legislative Council Procedure Rules, I have the honour to place for the information of the Council the following statement regarding action taken by Government

on the resolution regarding additional provision of one crore of rupees for the expansion and improvement of Primary Education in Bengal, that was passed by the House on the 30th August, 1940:—

"Government are unable to accept the Resolution *in toto* on the ground that there are practical difficulties in the way of accepting it as it stands. The problem of primary education is not merely a question of provision of funds but the question of the supply of trained teachers as well. At present there are a little over 30,000 trained teachers only. The existing training schools (including 32 centres) turn out annually a little over 3,000 trained teachers and with the opening of new training centres the number can be raised to at best 6 or 7 thousand per annum; whereas for the successful solution of the problem of primary education in Bengal, Government require about 148,000 trained teachers. Money spent on untrained teachers will be a sheer waste."

The resolution has, however, been partially implemented by Government by argreeing to additional provision of Rs. 35,00,000 recurring for primary education and of over Rs. 18,00,000 non-recurring for the training of teachers of primary schools.

Short-notice question of Mr. Lalit Chandra Das regarding the riot situation at Dacca and reply thereto.

Mr. PRESIDENT: The short-notice question of Mr. Lalit Chandra Das is as follows:—

"(*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state what is the latest situation in Dacca arising out of the communal clash there? How many have lost their lives and how many wounded so far? and

(*b*) What steps have so far been taken by the Government to bring the situation to normal conditions?"

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, in answer to the short-notice question, I beg to make the following statement for the information of the House:—

(*a*) The honourable member will be glad to hear that according to latest reports the situation has improved. There were five assaults by stabbing on Saturday, 22nd March, and two up to mid-day on Sunday, 23rd March, but looting is decreasing and shops are opening. Vegetable sellers, for example, are again taking their customary places. It has however been reported that this morning there has been a fire in the cooly lines of the Dacca Cotton Mills and some looting in Naya-Sarak. Sporadic cases of stabbing continue. These must unfortunately be expected for some time yet and till they stop, confidence

cannot be fully restored. The following are the figures, so far reported, of deaths and admission to the Mitford Hospital for injuries:—

Deaths—		
	Muslims ...	21
	Hindus ...	6
	Unidentified ...	1
	Total ...	28
Injured—		
	Muslims ...	99
	Hindus ...	55
	Christians ...	2
	Unidentified ...	1
	Total ...	157

(*b*) As the honourable member is aware, every effort is being made by political leaders, officials and non-officials, to restore peace between the two communities.

Executive action included a curfew order, an order under section 144, Cr. P. C., banning assemblies of 5 or more persons, the drafting from other districts of 400 extra police, 4 Sergeants and 2 officers of the Indian Police, pickets at the more important junctions and patrols through different parts of the city. The number of arrests so far made are as follows:—

Muslims—77, Hindus—157.

The honourable member and the House can rest assured that all possible action is being taken to restore peace and order.

The Bengal Finance (Sales Tax) Bill, 1941.

Mr. PRESIDENT: The House will now consider the Bengal Finance (Sales Tax) Bill, 1941, clause by clause.

Clause 1.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that in clause 1 of the Bill, in sub-clause (*2*), for the words "whole of Bengal", the words "city of Calcutta and the port of Chittagong" be substituted.

Sir, the object of my amendment is quite apparent. I propose to restrict the operation of the provisions of this Bill to the city of Calcutta and the port of Chittagong, the two places where business is most active and where the people are comparatively more intelligent than in the other towns and in the countryside. Though the Bill, Sir, comprises some 26 clauses, the Bill intends to affect all classes of dealers and manufacturers without any distinction, subject only to the pecuniary value of goods sold or manufactured and some other minor matters. It has, Sir, an all-comprehensive potentiality. There are many industries which are having a very precarious existence in the town and in the countryside outside Calcutta and Chittagong. There are the dealers who are also in a similar predicament. They should be left out. This is my reason No. 1. Reason No. 2 is this. Sir, the mufussil dealers are not conversant in the art of book-keeping. More often than not they will be entangled within the meshes of the provisions of this Bill for faulty book-keeping and this can be anticipated, Sir, if we see clause No. 13 of the Bill where a provision has been made that where the book-keeping is faulty, the dealer should be required to keep such accounts as may be prescribed.

The Bill proposes an innovation in the method of taxation. So my submission is that it should be carefully gone into and introduced only in places where there will be the least chance of its misapplication. Now, it may be argued, Sir, that by limiting the operation of the Bill to only the city of Calcutta and the port of Chittagong, the revenue which is intended to be derived therefrom will be very much lessened. With regard to that, Sir, my submission is that about 3/4 of the anticipated revenue can be obtained by its application to the city of Calcutta and the port of Chittagong, and the 1/4 which may be left out will not be necessary for the purpose for which this Bill is going to be passed. With these words, Sir, I move the amendment that stands in my name.

Mr. PRESIDENT: Amendment moved: that in clause 1 of the Bill, in sub-clause (*2*), for the words "whole of Bengal", the words "city of Calcutta and the port of Chittagong" be substituted.

Mr. NUR AHMED: Sir, I rise to oppose this amendment. I do not know why my learned friend has been so kind to Chittagong and wants to confine the operation of this Act to the port of Chittagong. I also do not understand what my friend means by the port of Chittagong. If it be the port area, I beg to state that in that area there is no shop, no dealer; there are only the dock labourers, jetties, etc. If he means the town of Chittagong—that also I do not know. Well, what is the condition of the town of Chittagong as compared to such big cities as Howrah and Dacca? There is no mill, no big

manufacturing industry worth mentioning. I do not understand why he has been so kind to the port of Chittagong. On that ground, I oppose this amendment.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I oppose the motion. Chittagong might feel flattered if it is singled out from other cities, but Calcutta does not appreciate that distinction.

Mr. PRESIDENT: The question before the House is: that in clause 1 of the Bill, in sub-clause (*2*), for the words "whole of Bengal", the words "city of Calcutta and the port of Chittagong" be substituted.

(The amendment was negatived.)

Rai Sahib JOGENDRA NATH ROY: I beg to move that in clause 1 of the Bill, in sub-clause (*3*), after the word "date" appearing in line 1, the words "not earlier than six months after the termination of the present European war" be inserted.

Mr. President, Sir, the present war has brought about a substantial increase in the cost of living, particularly for the middle-classes, and the imposition of the Sales Tax at this juncture would inevitably result in a disaster to the economic condition of the people who are already over-burdened with numerous taxations. It cannot be denied that the purchasing capacity of the people has been affected by the abnormal fall in the price of jute and rise in the price of many essential articles of consumption due to the war. To put an additional burden on the consumer at the present moment means that the Government will make their life more miserable.

If the problem of deficit is so desparate, if the Government want more money to expand its activities, the Ministry should explore all possible avenues of effecting economy in the departments of the General Administration, Police, Civil Works, etc., instead of imposing intolerable burdens of taxes in exceptionally hard times. The matter is a very simple one and I need not take much time of the House.

With these words, Sir, I commend my amendment to the House for their acceptance.

Mr. PRESIDENT: Amendment moved: that in clause 1 of the Bill, in sub-clause (*3*), after the word "date" appearing in line 1, the words "not earlier than six months after the termination of the present European war" be inserted.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I regret I have to oppose this amendment. It is to be understood that this Bill is a war time measure. There is deficit in the budget due to depression which

is largely due to the war and we want to make up the deficit; but if we restrict the operation of the Bill to a period after the war, the need of a Bill like this will be gone. I would rather suggest that the Act should terminate at the end of the war, and that I think would be more proper. In these circumstances, I oppose the amendment.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I have heard the mover of the amendment. It is a financial phenomenon that sales taxes are imposed in countries during periods of depression in order to meet the cost of administration and to meet deficits, and I am afraid there is no other alternative but to impose this taxation measure in the present condition of our finances.

Mr. PRESIDENT: The question before the House is: that in clause 1 of the Bill, in sub-clause (*3*), after the word "date" appearing in line 1, the words "not earlier than six months after the termination of the present European war" be inserted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 1 stand part of the Bill.

(The motion was agreed to.)

Clause 2.

Mr. PRESIDENT: Clause 2 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 2 of the Bill, in paragraph (*b*), the words "made by one person with another" occurring in lines 1 and 2, be omitted.

Sir, it seems to me that these words are redundant. The Bill clause says "sale" means "any transfer of property in goods by one person to another for cash or deferred payment....." Now, Sir, whenever there is a sale there are two parties: one party makes it and the other accepts it. So these words are very much implied and repetition of that will be altogether unnecessary. In these circumstances, I have moved this amendment.

Mr. PRESIDENT: Amendment moved: that in clause 2 of the Bill, in paragraph (*b*), the words "made by one person with another" occurring in lines 1 and 2, be omitted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, brevity enhances the effect of eloquence and I therefore accept the amendment without any speech.

(The amendment was agreed to.)

Rai Sahib JATINDRA MOHAN SEN: I beg to move that in clause 2 of the Bill, in paragraph (*b*) (*i*), for the word "or" appearing at the end, the words "not being a mosque, church or temple or any other building for worship, or" be substituted.

Sir, the object of my amendment is quite clear. My object is to exclude from the operation of the Bill the tax on goods supplied for the purpose of construction of mosques, churches and temples. That object being a very laudable one, I think the materials which are necessary for the construction of mosques, churches and temples, etc., should be excluded from the operation of the Bill.

Mr. PRESIDENT: Amendment moved: that in clause 2 of the Bill, in paragraph (*b*) (*i*), for the word "or" appearing at the end, the words "not being a mosque, church or temple or any other building for worship, or" be substituted.

Khan Bahadur NAZIRUDDIN AHMAD: In this case I am very sorry I have to oppose the amendment. It will create a situation quite opposite to what the amendment purports to achieve. In fact, the plain purpose of the amendment is to benefit mosques, temples and other religious buildings, and thus to exclude them from the mischief of the Bill; but the place where this amendment would be inserted is in the exceptions to certain benefits under the Bill. There are certain beneficial exceptions which are provided in the other portions of the Bill, namely, in clause 2 (*h*) (*ii*) and the amendment is an exception to that. So, if we introduce mosques and temples and other places of worship here, that will mean that the beneficial exceptions, which could be claimed by non-religious buildings, will be entirely lost to religious buildings. So, the exemption which would be enjoyed by the ordinary houses will not be enjoyed by mosques and similar other buildings. Therefore, it will be found that the amendment will rather directly hit the mosques and similar places of religious worship and it is for this reason that, though I appreciate the intention behind the amendment, I am unable to support it.

The Hon'ble Mr. H. S. SUHRAWARDY: I appreciate the religious fervour of the honourable member who has moved the amendment, but the result of the amendment will be as has been stated by Khan Bahadur Naziruddin Ahmad, namely, that the labour employed in constructing mosques, temples and churches will be taxed, whereas we propose to put in a clause exempting such labour from taxation. Therefore, I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that in clause 2 of the Bill, in paragraph (*b*) (*i*), for the word "or" appearing at the end, the words "not being a mosque, church or temple or any other building for worship, or" be substituted.

(The amendment was negatived.)

Mr. NUR AHMED: I beg to move that at the end of paragraph (*c*) of clause 2 of the Bill, the following explanation be added, namely:—

"*Explanation.*—A co-operative society or club or any association which sells or supplies goods to its members is a dealer within the meaning of this clause."

Sir, clause (*c*) deals with the definition of "dealers". I find that there is a gap which should be supplied. It says that "dealer" means "any person, firm or Hindu joint family"; but it leaves out a co-operative society or club or association which sells or supplies goods to its members worth more than Rs. 50,000. So, I think it is necessary and should be added as an Explanation.

Mr. PRESIDENT: Amendment moved: that at the end of paragraph (*c*) of clause 2 of the Bill, the following Explanation be added, namely:—

"*Explanation.*—A co-operative society or club or any association which sells or supplies goods to its members is a dealer within the meaning of this clause."

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I am prepared to accept this amendment with just one little addition which has perhaps been inadvertently omitted, viz., the word "a" may be inserted after the word "or" in the first line of the Explanation.

Mr. NUR AHMED: Sir, I accept the amendment.

Mr. PRESIDENT: I allow the amendment.

The question before the House is: that at the end of paragraph (*c*) of clause 2 of the Bill, the following Explanation be added, namely:—

"*Explanation.*—A co-operative society or club or any association which sells or supplies goods to its members is a dealer within the meaning of this clause."

(The amendment was agreed to.)

Rai Sahib JATINDRA MOHAN SEN: I beg to move that in clause 2 of the Bill, in paragraph (*d*), for the words "or securities" in line 2, the comma and the words ", securities or bills of exchange" be substituted.

Sir, I move this amendment with a view to clear the doubt which may exist with regard to the question whether a bill of exchange would come within the expression "securities" or within the meaning of

"actionable claims", etc. The point is not clear here. We know that a large amount of bills of exchange are purchased and sold by the banks and they come to very huge figures. Now if bills of exchange come within the meaning of movable property or goods, then a huge amount of money will have to be paid by the banks and other persons. In order to clarify any doubt that exists, I propose in my amendment that the bills of exchange ought to be excepted from the definition of goods.

Mr. PRESIDENT: Amendment moved: that in clause 2 of the Bill, in paragraph (*d*), for the words "or securities" in line 2, the comma and the words ", securities or bills of exchange" be substituted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I cannot accept this amendment. There is no fear—as the Rai Sahib thinks,—that people will be taxed over and over again if banks sell bills of exchange to each other. If they are registered dealers, then a sale by one registered dealer to another will not be affected. But we cannot exclude a bill of exchange, because a bill of exchange is a title deed for the goods, and to exclude bills of exchange would result in excluding those goods altogether.

Mr. PRESIDENT: The question before the House is: that in clause 2 of the Bill, in paragraph (*d*), for the words "or securities" in line 2, the comma and the words ", securities or bills of exchange" be substituted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 2 of the Bill, in paragraph (*g*), the words "by one person to another" occurring in lines 1 and 2, be omitted.

Mr. PRESIDENT: The question before the House is: that in clause 2 of the Bill, in paragraph (*g*), the words "by one person to another" occurring in lines 1 and 2, be omitted.

(The amendment was agreed to.)

Rai MANMATHA NATH BOSE Bahadur: Sir, I beg to move: that in clause 2 of the Bill, in paragraph (*g*), for the words "charge or pledge" appearing at the end, the words and comma "charge, pledge or lease" be substituted.

My submission is this, Sir, that if sales are to include mortgage, hypothecation, charge or pledge, they ought to include leases also. Therefore, I have suggested this amendment and I hope, Sir, that this amendment will be accepted by the Hon'ble Minister.

Mr. PRESIDENT: Amendment moved: that in clause 2 of the Bill, in paragraph (*g*), for the words "charge or pledge" appearing at the end, the words and comma "charge, pledge or lease" be substituted.

The Hon'ble Mr. H. S. SUHRAWARDY: I am sorry, Sir, I cannot accept this. "Lease" is so widely different from a "sale" that there can be no confusion.

Mr. PRESIDENT: The question before the House is: that in clause 2 of the Bill, in paragraph (*g*), for the words "charge or pledge" appearing at the end, the words and comma "charge, pledge or lease" be substituted.

(The amendment was negatived.)

Mr. NUR AHMED: Sir, I beg to move: that in Explanation 1 to paragraph (*g*) of clause 2 of the Bill, before the words "Transfer" at the beginning, the word "A" be added.

The addition of this word, Sir, is necessary for the sake of good grammar.

Mr. PRESIDENT: The question before the House is: that in Explanation 1 to paragraph (*g*) of clause 2 of the Bill, before the words "Transfer" at the beginning, the word "A" be added.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 2 of the Bill, in Explanation 2 to paragraph (*g*), for the word "when" occurring in line 3, the words "at the time when" be substituted.

I submit, Sir, that these words make the position absolutely clear.

Mr. PRESIDENT: The question before the House is: that in clause 2 of the Bill, in Explanation 2 to paragraph (*g*), for the word "when" occurring in line 3, the words "at the time when" be substituted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 2 of the Bill, in paragraph (*h*) (*i*), for the word "transfer" occurring in line 1, the word "sale" be substituted.

Mr. PRESIDENT: The question before the House is: that in clause 2 of the Bill, in paragraph (*h*) (*i*), for the word "transfer" occurring in line 1, the word "sale" be substituted.

(The amendment was agreed to.)

Rai MANMATHA NATH BOSE Bahadur: Sir, I beg to move that in clause 2 of the Bill, in paragraph (*i*), after the words "parts of sale-prices" in line 2, the words "in respect of any particular goods" be inserted.

Sir, if a dealer deals with many commodities, his turn-over now means the aggregate of prices of all commodities dealt with by him; whereas in the proposed amendment would restrict the meaning to an aggregate of sale-prices of each of the commodities sold by him. Therefore, Sir, I have made this suggestion and I hope it may be accepted by the House.

Mr. PRESIDENT: Amendment moved: that in clause 2 of the Bill, in paragraph (*i*), after the words "parts of sale-prices" in line 2, the words "in respect of any particular goods" be inserted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I am sorry I am unable to appreciate how the addition of the words "in respect of any particular goods" is going to change the significance of this clause of the Bill or is going in any way to improve it. I am, therefore, sorry that I cannot accept it.

Mr. PRESIDENT: The question before the House is: that in clause 2 of the Bill, in paragraph (*i*), after the words "parts of sale-prices" in line 2, the words "in respect of any particular goods" be inserted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is that clause 2, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 3.

Mr. PRESIDENT: The question before the House is that clause 3 stand part of the Bill.

(The motion was agreed to.)

Clause 4.

Mr. PRESIDENT: Clause 4 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 4 of the Bill, in sub-clause (*1*), for the words "with effect" occurring in lines 1 and 2, the words "and with effect" be substituted.

Sir, this amendment would make the meaning more clear.

Mr. PRESIDENT: The question before the House is: that in clause 4 of the Bill, in sub-clause (*1*), for the words "with effect" occurring in lines 1 and 2, the words "and with effect" be substituted.

(The amendment was agreed to.)

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that in clause 4 of the Bill, in sub-clause (*1*), for the words "thirty days" appearing in line 4, the words "ninety days" be substituted.

Sir, the period of 30 days is, in my opinion, too short a time. So, I suggest that this period may be extended to 90 days.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I oppose it. Thirty days is the period within which the trader will not be troubled regarding the payment of tax, that is to say, the date for notification will not be within thirty days; but after the Act has been promulgated there is no reason why the trader should not be ready to pay the tax, once we are in a position to notify the date.

Mr. PRESIDENT: The question before the House is: that in clause 4 of the Bill, in sub-clause (*1*), for the words "thirty days" appearing in line 4, the words "ninety days" be substituted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 4 of the Bill, in the proviso to sub-clause (*1*), for the word "was" occurring in line 2, the words "is shown to the satisfaction of the Commissioner to have been" be substituted.

I submit that the amendment clearly states what was really intended. If we leave the proviso as it is, it will lead to much controversy; but if we make the amendment as I have suggested, then there will be no controversy. The question will depend on the judgment of the Commissioner; otherwise there will be two standards, and there will be constant difference of opinion between the public and the Commissioner as to what was a fact and what the Commissioner finds to be a fact. So, in order to remove this doubt I have suggested this improvement.

(The amendment was agreed to.)

Rai Sahib JATINDRA MOHAN SEN: I beg to move that sub-clause (*3*) of clause 4 of the Bill be omitted.

In moving this amendment I beg to point out that sub-clause (*3*), as it stands, makes the dealer, who has once become liable to pay the tax but whose taxable quantum has fallen below the prescribed limit, liable to pay the tax until the expiry of three consecutive years during each of which his gross turn-over has failed to exceed the taxable quantum.

In my opinion, and I hope the honourable members will also agree with me, this clause is a penal provision for which I do not find any reason. The taxable quantum may have failed but that is no reason why the tax should continue for three consecutive years. So, my proposal is that sub-clause (*3*) should be altogether deleted.

Mr. PRESIDENT: Amendment moved: that sub-clause (*3*) of clause 4 of the Bill be omitted.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to oppose this amendment. The amendment has certainly a laudable object behind it but there are serious considerations which will entirely upset the foundation on which the Bill has been based. If we try to determine the taxable limit every year, the effect of that will be that a dealer, whose turn-over once exceeds the limit of Rs. 50,000 in one year, will be in doubt during the next year as to whether he should collect the tax from his customers or not and the people also will be in doubt as to whether they ought to pay him the tax or not. Supposing that a dealer, anticipating that his gross sale will exceed the limit, collects the tax and at the end of the year finds that the amount of his sale is just below the limit, what will he do in these circumstances with the taxes collected? Nobody knows. The person who has paid the tax cannot get a refund; Government cannot get the tax; in the circumstances, the dealer will appropriate all the money without paying it to anybody.

The public will pay it but Government will not get it. It leaves the dealer in a better position. So the person who is affected by the clause merely collects the tax from the people and pays it to Government. He is a collector of tax. Under the circumstances, he is not at all penalised. In a matter like this when buyers have got to pay tax, there must be some fixity. If a man has got to pay tax once by reason of his exceeding the limit, he must continue to do so for some time. In order to remove all sorts of uncertainties, this provision has been inserted. If you remove this sub-clause, instead of improving the position, you will place everything in a topsy-turvy condition. People will pay the tax which will not reach the coffers of Government and this will mean needless sacrifice by the people without any benefit to the provincial exchequer.

Rai Bahadur MANMATHA NATH BOSE: Sir, I support the amendment as it also stands in my name. It appears that sub-clause (*3*) itself is rather unreasonable. Besides, this will lead to slackening of effort to increase the sales of commodities by dealers. The Hon'ble Minister will please consider the intention of underlying this amendment. It would be putting a premium on the inactivity of the dealers. Therefore, I feel that this provision should not find any place in the Statute Book.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, the opposition to this sub-clause has proceeded on a misapprehension and on a misconception regarding its purpose. The honourable mover has said that this is a penal provision. On the other hand, my confirmed conviction is that registration is a privilege which many dealers would welcome. The honourable members should realise that when registered dealers deal among themselves, they do not have to pay this tax to each other. But when they re-sell to others—to the consumers or to the unregistered dealers—then and then only they collect the tax from the unregistered dealers or from the consumers. A person, therefore, becomes a registered dealer for his own advantage. His taxable quantum this year may be Rs. 50,000, but it may in the following year become Rs. 48,000. So, if we do not have a provision of this type, he will go out of the category of registered dealers, and the honourable member's amendment will result in a state of confusion in business and trade, which will be most unwelcome. For instance, other registered dealers will not know whether a particular dealer is within or without the category of registered dealers. Then, Sir, this liability is merely a liability to collect tax from the consumers. Without this provision, there is no certainty whether a man continues to be a registered dealer or not, whereas if we put a limit of three years, it does not matter even if it goes down to Rs. 1,000. He will continue to have the privilege of a registered dealer and will collect the tax. I do not see any reason to suggest that this operates harshly against the dealers. On the other hand, we think that the dealers will take advantage of registration to a great extent and so by a subsequent clause we have given opportunities to dealers whose taxable quantum is between Rs. 50,000 and Rs. 1,00,000 to register themselves voluntarily. We believe, Sir, that many dealers will take advantage of this provision of the Act. I hope, Sir, that the honourable members opposite realize that this is being done in the interest of the dealers themselves and of trade and business and not to penalise them.

Rai Sahib JATINDRA MOHAN SEN: May I, Sir, ask one question of the Hon'ble Minister? I have listened with attention to what the Hon'ble Finance Minister has said. Here, clause 3 provides that every dealer who has become liable to pay tax under this Act shall continue to be so liable. My difficulty is whether this liability means that he will continue to pay the same amount of tax, or he will continue to collect the tax from the unregistered dealers and pay the same.

The Hon'ble Mr. H. S. SUHRAWARDY: It does not mean that he will continue to pay the same amount of tax but he will merely continue to collect the tax on the sales, and the amount payable by him, of course, will depend upon the volume of his transactions.

Mr. PRESIDENT: The question before the House is: that sub-clause (*3*) of clause 4 of the Bill be omitted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 4 of the Bill, after sub-clause (*3*), the following new sub-clause be inserted, namely:—

"(*3a*) On the expiration of the three consecutive years referred to in sub-section (*3*), the dealer's liability to pay the tax under this Act shall cease."

Sir, in clause 3, which was objected to in the amendment just considered, nothing was said as to the termination of a dealer's liability at the end of the third year. On a matter like this, that intention should be absolutely and clearly laid down and this proposed sub-clause (*3a*) makes it absolutely clear, namely, that "on the expiry of three consecutive years the dealer's liability to pay the tax under this Act shall cease." After the expiry of that period referred to in sub-clause (*3*) his liability should terminate. But in order to make the point absolutely clear, this sub-clause is necessary.

Mr. PRESIDENT: Amendment moved: that in clause 4 of the Bill, after sub-clause (*3*), the following new sub-clause be inserted, namely:—

"(*3a*) On the expiration of the three consecutive years referred to in sub-section (*3*), the dealer's liability to pay the tax under this Act shall cease."

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, this amendment directs our attention to a point which I am afraid, we have overlooked. What happens after the three-year period? Does he automatically come out? That also is not very helpful, because proper notices ought to be issued so that the trade may know that the name of such and such person has been deleted from the list of registered dealers. We should, therefore, make provision for proper notice for a short period of time after the expiry of 3 years and I suggest the following amendment:—

"That at the end of sub-clause (*3*) of clause 4 of the Bill at the end of sub-clause (*3*), after the words 'taxable quantum' we should add the following—

'and such further period after the date of such expiry as may be prescribed and on the expiry of this latter period his liability to pay tax shall cease'."

We are giving this further period for the purpose of issuing the necessary notices and information to everyone.

Mr. PRESIDENT: I shall allow this as an amendment to the amendment the further amendment, namely, "and such further period after the date of such expiry as may be prescribed and on the expiry of this latter period his liability to pay tax shall cease."

Order, order. Amendment has been moved that in clause 4 of the Bill, after sub-clause (*3*), the following new sub-clause be inserted, namely:—

"(*3a*) On the expiration of the three consecutive years referred to in sub-section (*3*), the dealer's liability to pay the tax under this Act shall cease."

Since which the following amendment has been moved to substitute that amendment by "and such further period after the date of such expiry as may be prescribed and on the expiry of this latter period his liability to pay tax shall cease."

The question before the House——

Rai Sahib JATINDRA MOHAN SEN: Sir, may I submit that the consideration of this amendment be postponed till to-morrow, as we are unable to understand the implication of the second amendment?

Mr. PRESIDENT: It is more or less the same amendment as proposed by Khan Bahadur Naziruddin Ahmad put in a different language in order to make the meaning clear.

Mr. J. B. ROSS: Sir, one question I would like to ask the Hon'ble the Finance Minister and the mover of the amendment in regard to the amendment of the amendment. Is there not a possibility that both might be interpreted as meaning that a dealer whose turn-over does not exceed the taxable quantum for a period of three years becomes no longer liable to tax? Is there not a possibility that never in future shall he be considered liable to tax? Would it not be proper and better to specify thus—

"he shall cease to be liable to tax for so long as his turn-over does not exceed the taxable quantum"?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: But the next sub-section makes the point clear; I mean sub-section (*4*).

The Hon'ble Mr. H. S. SUHRAWARDY: Yes, Sir, sub-section (*4*) puts him back again as soon as the taxable quantum comes up to the prescribed figure.

Mr. PRESIDENT: The question before the House is: that the original amendment, as further amended, be made.

(The motion was agreed to.)

Rai MANMATHA NATH BOSE Bahadur: I beg to move that in paragraph (*a*) of sub-clause (*5*) of clause 4 of the Bill, after the word "manufactures" in line 2, the words "or produces" be inserted.

I think that this expression should be there because there are persons who manufacture and also persons who produce. Therefore, to my mind, this expression is necessary. I hope that this amendment will be accepted by the Hon'ble Minister.

Mr. PRESIDENT: Amendment moved: that in paragraph (*a*) of sub-clause (*5*) of clause 4 of the Bill, after the word "manufactures" in line 2, the words "or produces" be inserted.

Mr. NUR AHMED: I beg to support this amendment. I also gave notice of a similar amendment. I think it is necessary for the sake of equal treatment. If we do not insert the word, what will happen? It will mean that if a person produces goods worth more than Rs. 10,000, he will escape the taxation. Therefore, I think this word is necessary and I support the motion accordingly.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, this is an ingenious amendment and I believe that it meets the point that was raised by the Chair the other day, which, if I might say with due respect, was a point very well-taken. I hope that this will also remove the constitutional difficulty and I therefore accept the amendment.

Mr. PRESIDENT: If this amendment is accepted, then the constitutional difficulty to which I drew the attention of the Hon'ble Finance Minister the other day will certainly be removed. The point was that there should be no discrimination between inter-state or inter-provincial commerce. Section 297 of the Government of India Act, 1935, prohibits any restriction on inter-provincial and inter-state commerce. And the acceptance of this amendment will remove the discrimination that was otherwise implicit in the Bill-clause as originally drafted.

The question before the House is: that in paragraph (*a*) of sub-clause (*5*) of clause 4 of the Bill, after the word "manufactures" in line 2, the words "or produces" be inserted.

(The amendment was agreed to.)

Rai MANMATHA NATH BOSE Bahadur: I beg to move that in clause 4 of the Bill, in sub-clause (*5*)(*a*), for the figures "10,000", the figures "50,000" be substituted.

Sir, what I mean to say by this amendment is that those who manufacture goods in Bengal for sale should be given a greater latitude than other dealers. So, if in the case of other dealers the taxable quantum is 10,000, why should the infant industries of Bengal be suppressed by taxation? Some sort of indulgence should be shown to them and I submit that this 10,000 should be increased to 50,000.

Mr. PRESIDENT: Amendment moved: that in clause 4 of the Bill, in sub-clause (*5*)(*a*), for the figures "10,000", the figures "50,000" be substituted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I cannot agree. There are a large number of manufacturers within the gap between Rs. 10,000 and Rs. 50,000 and they will all escape taxation on all the goods they produce; Government will thus be deprived of this small tax of one pice in the rupee.

(The amendment was negatived.)

Rai Sahib JATINDRA MOHAN SEN: I beg to move that in clause 4 of the Bill, in sub-clause (*5*)(*a*), for the figures "10,000" in line 3, the figures "25,000" be substituted.

Sir, in moving this amendment I want to put forward the reasoning which my friend Rai Bahadur Manmatha Nath Bose has just given. He proposed that the taxable quantum should be raised to Rs. 50,000 and the Hon'ble Finance Minister said that there will be a big gap between Rs. 10,000 and Rs. 50,000. So I want to reduce that gap to Rs. 25,000.

Mr. PRESIDENT: Amendment moved: that in clause 4 of the Bill, in sub-clause (*5*)(*a*), for the figures "10,000" in line 3, the figures "25,000" be substituted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, this amendment also I cannot accept. If we allow this, it would mean exemption for a number of persons with small import business. It will also mean splitting up of the business which should be avoided. I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that in clause 4 of the Bill, in sub-clause (*5*)(*a*), for the figures "10,000" in line 3, the figures "25,000" be substituted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 4 of the Bill, in paragraph (*b*) of sub-clause (*5*), for the words "any particular class of dealer" appearing in line 1, the words "particular classes of dealers" be substituted.

Sir, this is only a drafting change.

Mr. PRESIDENT: Amendment moved: that in clause 4 of the Bill, in paragraph (*b*) of sub-clause (*5*), for the words "any particular class of dealer" appearing in line 1, the words "particular classes of dealers" be substituted.

The question before the House is: that in clause 4 of the Bill, in paragraph (*b*) of sub-clause (*5*), for the words "any particular class of dealer" appearing in line 1, the words "particular classes of dealers" be substituted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 4 of the Bill, in paragraph (*b*) of sub-clause (*5*), after the words "class of dealer" appearing in line 1, the words, brackets and letter "not falling within clause (*a*) of this sub-section" be inserted.

Mr. PRESIDENT: Amendment moved: that in clause 4 of the Bill, in paragraph (*b*) of sub-clause (*5*), after the words "class of dealer" appearing in line 1, the words, brackets and letter "not falling within clause (*a*) of this sub-section" be inserted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, all that I would say is that I am prepared to accept the amendment if the words "of this sub-section" occurring in line 4 of the amendment be omitted. It is within the sub-section itself of clause (*a*).

Mr. PRESIDENT: Is it acceptable to the Khan Bahadur?

Khan Bahadur NAZIRUDDIN AHMAD: Yes, Sir. The words are not necessary and may be deleted.

Mr. PRESIDENT: The question before the House is: that in clause 4 of the Bill, in paragraph (*b*) of sub-clause (*5*), after the words "class of dealer" appearing in line 1, the words, brackets and letter "not falling within clause (*a*)" be inserted.

(The amendment was agreed to.)

Rai Sahib JATINDRA MOHAN SEN: I beg to move that in clause 4 of the Bill, in sub-clause (*5*)(*c*), for the figures "50,000", the figures "75,000" be substituted.

Mr. PRESIDENT: Amendment moved: that in clause 4 of the Bill, in sub-clause (*5*)(*c*), for the figures "50,000", the figures "75,000" be substituted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I oppose this amendment. Rs. 50,000 is quite a high taxable quantum.

Mr. PRESIDENT: The question before the House is: that in clause 4 of the Bill, in sub-clause (*5*)(*c*), for the figures "50,000", the figures "75,000" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 4, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 5.

Mr. NUR AHMED: Sir, I beg to move that in sub-clause (*1*) of clause 5 of the Bill, after the word "be" in line 2, the word "levied" be inserted.

The sub-clause (*1*) as it stands at present reads thus—

> "The tax payable by a dealer under this Act shall be at the rate of one-quarter of an anna in the rupee on his taxable turnover."

Now, with the insertion of the word "levied", which to my mind is necessary, the sub-clause would read thus—

> "The tax payable by a dealer under this Act shall be *levied* at the rate of one-quarter of an anna in the rupee on his taxable turnover."

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 5 of the Bill, after the word "be" in line 2, the word "levied" be inserted.

(The amendment was agreed to.)

Rai Sahib JOGENDRA NATH ROY: Sir, I beg to move: that in clause 5 of the Bill, in sub-clause (*1*), for the words "one-quarter of an anna" appearing in line 2, the words "one-eighth of an anna" be substituted.

Sir, the Hon'ble Minister-in-charge of Finance has said that the tax would fall on middle classes and higher classes and the poorer people would not be hard hit as most of their necessaries have already been exempted.

In my humble view, Sir, though apparently it seems that this taxation proposal is meant only to affect rich businessmen, yet it would ultimately touch the pockets of the poor people of Bengal. It will directly or indirectly affect the poor agriculturists who are already over-taxed. It will, I think, prejudicially affect the infant trades, industries and commerce in the country.

Sir, the Sales Tax Bill may, of course, be justified in principle. We find that Congress Governments have accepted it and most of the other countries have also accepted it and the rate on the face of it does not compare unfavourably with the rates of other countries. But it must be borne in mind that those countries, when they resorted to a Sales Tax, started mostly with the rate of one per cent.; in some cases the rate was even lower. It must not be forgotten that the present time is inopportune for introducing this new tax. It is going to be imposed at a time when economic depression in the countryside is very acute due to war conditions. The price of jute has gone down. It shows no sign of any increase in the near future. The practical result of the operation of this taxation will be a further lowering of the purchasing power of the people and their standard of living. The prices of articles of daily necessaries have gone up. As a result the condition of the agriculturists has become very miserable. To impose further taxation at the present moment will make their life more miserable.

Sir, the Hon'ble Mr. Suhrawardy says that the Government must have adequate funds for two reasons. It is necessary to balance the budget and to find adequate funds for the nation-building departments.

In my humble view, Sir, if the Ministry is really anxious to present a balanced budget and at the same time to effect real and substantial improvement in the nation-building departments without imposing fresh burdens of taxes on an over-burdened people, they should lose no time to give effect to some of the most essential recommendations of the Retrenchment Committee. The departments of General Administration, Police, Civil Works, &c., are proper spheres where large-scale economy should be attempted for saving the nation-building departments which, as the Finance Minister has frankly confessed, are starved and under-nourished.

Sir, I know that the Government want money to bring about the budgetary equilibrium and more money to expand its activities and that they are determined to have the tax imposed in spite of protests. But the least they can do to meet these protests is to put the rate of tax to the minimum point.

Sir, the estimated deficit is one crore and thirty-four lakhs. But it may be that the actual deficit will be less than half a crore. They should, therefore, start with a taxation of one-eighth of an anna and see what amount is realised and what is the actual deficit. And then we may decide whether the rate should be higher.

In the circumstances, I am of opinion that so long as it is not ascertained what revenue is realised during the first year of the operation of this Act, the rate of tax should not be more than one-eighth of an anna.

With these few words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in clause 5 of the Bill, in sub-clause (*1*), for the words "one-quarter of an anna" appearing in line 2, the words "one-eighth of an anna" be substituted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to oppose this amendment. My honourable friend has admitted that in the Congress provinces also such taxations have been imposed, but he says that in those provinces the rate of tax is lower than what is proposed to be imposed here. Sir, my honourable friend forgets that although the rate of tax there is less than ours, still the tax is collected at many stages. In Madras for example, it is ½ pice, but if this tax is collected four times then it comes to 2 pice. So, practically the Madras tax is higher than this.

With these few words, Sir, I oppose this amendment.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to support the speaker who has just sat down and oppose the amendment. In this Bill we have provided that a registered dealer alone is entitled to collect the tax for the Government and the tax is paid only once throughout the whole transaction,—from production of an article down to its ultimate passage to the hands of the consumer. But in Madras an article is produced and sold at a certain place and for that turnover a small amount of tax has got to be paid. Then, that article is re-sold in another place and again an additional small amount of tax is to be paid and so on. We do not know how many times the turnover tax is to be paid there, because at each transaction a fresh tax is to be paid. Our Bill is an enormous improvement on that system. First of all, people know how much has to be paid for a sale. In Madras the tax is low, because they realise the tax for each transaction. In Bengal on the other hand, we have to pay a little higher rate because we pay this tax only at a particular stage and not before nor after it. In these circumstances, this tax is absolutely just and it is so calculated

as to bring to the budget that amount of money which is just necessary and not more. If we reduce the rate of tax, then the effect of the taxation will be gone. It will only be a cause of annoyance to the public and at the same time the hunger of the Government will not be appeased, and this means double loss on each side. The tax should be levied in such a manner that the public may not be disturbed twice for this, and also the collection from the tax should be sufficient to make up all the budget deficits. In these circumstances, it is very difficult for us to accept this amendment.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I would like to correct the mistake, if I may, once for all, that the other provinces that have imposed this tax have started with a lower figure, such as 1 per cent.

This is being repeated by honourable members over and over again and they have presumably taken this cue from certain undigested literature on the subject. Honourable members, however, forget that the tax in other countries is levied every time the goods change hands from one trader to another—until it gets to the consumer—and consequently this 1 per cent. is equivalent to 5 or 6 per cent. of a one-point tax.

Then again, Sir, the mover of the present amendment says that the price of jute has gone down to such an extent that there is no sign of its rising. Fortunately, the price of jute is rising in the mufussil considerably and it is about 12 annas per maund higher than it was about 17 days ago. However, this is only by the way, and I would not have mentioned the matter had not the honourable member referred to it in his speech.

We have exempted so many things and articles—our list of exemptions is so large—that if we further reduce the rate of our taxation, we shall hardly get any money commensurate to our needs. I may have to point out to the House subsequently that other countries that have also imposed this taxation have hardly exempted any article, and we have shown, I think, much more consideration for the poor man and the needs of our people than any other province or country has done.

Then, again, we need not look at this Bill so much in the light of meeting a deficit—as if this taxation has been levied only for the purpose of covering a deficit. As I have pointed out before, the deficit is there—staring us in the face, and we have also to meet our current expenditure. But there are other needs also to be considered and we have also no reserves at all. Surely, the House does not expect that this province should not have anything whatsoever to fall back upon on a rainy day, and that we shall not be in a position to take

up further expenditure till the war is over. The war is not going to last for ever and perhaps there are signs of an early termination—but this is a mere speculation regarding the future. It is necessary that we should have money at our disposal as there are many matters and schemes, beneficent schemes, that we should like to take up but which we dare not initiate because we do not see any money before us. If the money is available, we shall be able to put in further substantial measures before the House, of course, keeping in view our limited resources and the necessity of gradual expansion. I oppose the amendment, Sir.

Mr. PRESIDENT: The question before the House is: that in clause 5 of the Bill, in sub-clause (*1*), for the words "one-quarter of an anna" appearing in line 2, the words "one-eighth of an anna" be substituted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 5 of the Bill, in sub-clause (*2*), for the word "section" appearing in line 1, the word "Act" be substituted.

In this clause, the taxable turn-over means that part of a dealer's gross turn-over during any period which remains after deducting, etc. The words "taxable turn-over" have also been used in other places of this Bill. In the circumstances, the meaning should not be confined to the section but to the Act. It is to correct this anomaly that I propose this amendment.

(The amendment was agreed to.)

Mr. NUR AHMED: I beg to move that in sub-clause (*2*) of clause 5 of the Bill, after the words "after deducting" in line 3, the word "therefrom" be inserted.

Sir, I want to insert the word "therefrom" after the words "after deducting" in line 3 in sub-clause (*2*) of clause 5: my intention is to make the meaning of the sub-clause more clear and I think that this addition is more appropriate.

Mr. PRESIDENT: Amendment moved that in sub-clause (*2*) of clause 5 of the Bill, after the words "after deducting" in line 3, the word "therefrom" be inserted.

The question before the House is that in sub-clause (*2*) of clause 5 of the Bill, after the words "after deducting" in line 3, the word "therefrom" be inserted.

(The amendment was agreed to.)

Rai MANMATHA NATH BOSE Bahadur: I beg to move that in clause 5 of the Bill, in sub-clause (2), for item (*ii*) of paragraph (*a*), the following be substituted, namely:—

"(*ii*) sales to a registered dealer of goods for the purpose of resale or for use by him in the manufacture for sale of any goods or in the execution of any contract or to an unregistered dealer whose gross turn-over exceeds the taxable quantum but who has not yet registered his name in accordance with the provisions of this Act; and on sales to a registered dealer of containers and other materials for packing of such goods or to an unregistered dealer thereof whose gross turnover is taxable but who has not yet registered his name in accordance with the provisions of this Act."

Sir, the amount of taxable turn-over is to be determined after deducting the amount specified in the sub-clause. This is good no doubt, but I think it does not go far enough. By enacting that registered dealers are to get deduction, the Bill virtually circumscribes the sales only to a circle of vendees, because the dealers will naturally try to sell their goods to registered dealers only for the purpose of getting deduction. This will tend to increase the price of goods and the sale will tend to be confined to registered dealers only as far as possible. Ultimately, the goods may be sold to unregistered dealers but by that time the price had been artificially raised. It may be recognised at the same time that if sales to all dealers including small dealers be exempted, the goods may not be taxed at all. The amendment tries to enlarge the circle of buyers, and will safeguard that contingency happening.

Mr. PRESIDENT: Amendment moved that in clause 5 of the Bill, in sub-clause (2), for item (*ii*) of paragraph (*a*), the following be substituted, namely:—

"(*ii*) sales to a registered dealer of goods for the purpose of resale or for use by him in the manufacture for sale of any goods or in the execution of any contract or to an unregistered dealer whose gross turn-over exceeds the taxable quantum but who has not yet registered his name in accordance with the provisions of this Act; and on sales to a registered dealer of containers and other materials for packing of such goods or to an unregistered dealer thereof whose gross turnover is taxable but who has not yet registered his name in accordance with the provisions of this Act."

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I am sorry, I have not been able to follow the argument of the honourable member. If there is a dealer who wishes to take advantage of the Act, why should

he not get himself registered? Why should there be a person unregistered whose turn-over exceeds the taxable quantum? We are giving him ample opportunity to register himself and we see no reason why we should contemplate the existence of any unregistered dealer with a quantum above the figures prescribed. Sir, I oppose the motion.

Mr. PRESIDENT: The question before the House is: that in clause 5 of the Bill, in sub-clause (*2*), for item (*ii*) of paragraph (*a*), the following be substituted, namely:—

"(*ii*) sales to a registered dealer of goods for the purpose of resale or for use by him in the manufacture for sale of any goods or in the execution of any contract or to an unregistered dealer whose gross turn-over exceeds the taxable quantum but who has not yet registered his name in accordance with the provisions of this Act; and on sales to a registered dealer of containers and other materials for packing of such goods or to an unregistered dealer thereof whose gross turn-over is taxable but who has not yet registered his name in accordance with the provisions of this Act."

(The amendment was negatived.)

Khan Sahib ABDUL HAMID CHOWDHURY: I beg to move that in clause 5 of the Bill, in item (*ii*) of paragraph (*a*) of sub-clause (*2*), for the words "for sale of any goods" appearing in line 4, the words "of any goods for sale" be substituted.

Sir, I propose this amendment with the idea that it will improve the draft.

Mr. PRESIDENT: Amendment moved that in clause 5 of the Bill, in item (*ii*) of paragraph (*a*) of sub-clause (*2*), for the words "for sale of any goods" appearing in line 4, the words "of any goods for sale" be substituted.

The question before the House is that in clause 5 of the Bill, in item (*ii*) of paragraph (*a*) of sub-clause (*2*), for the words "for sale of any goods" appearing in line 4, the words "of any goods for sale" be substituted.

(The amendment was agreed to.)

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move: that in clause 5 of the Bill, in sub-clause (*2*) (*a*) (*ii*), the word "on" appearing in line 5, be omitted.

Sir, the reason why the word "on" is to be omitted is that it is redundant. Sub-clause (*a*) begins thus "his turn-over during that period on" and this word "on" is again used in sub-clause (*a*) (*ii*) in line 5, namely, "and *on* sales, etc." To my mind, Sir, the second "on" appears to me to be redundant.

Mr. PRESIDENT: Amendment moved: that in clause 5 of the Bill, in sub-clause (*2*) (*a*) (*ii*), the word "on" appearing in line 5, be omitted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, although the amendment sought to be made is a small drafting change, yet I think the amendment is not an improvement on the present drafting. Sub-clause (*a*), Sir, begins thus "his turn-over during that period *on*". This "on" will govern the word "sales" in all the various sub-clauses following, namely, sub-clauses (*i*) to (*vi*), but will not govern the word "sales" occurring within a sub-clause, namely, the word "sales" occurring within sub-clause (*ii*) in line 5. In order to govern the word "sales" occurring within sub-clause (*ii*) in line 5, another "on" is necessary. Therefore, Sir, this will not be an improvement on the present drafting.

Mr. PRESIDENT: The question before the House is: that in clause 5 of the Bill, in sub-clause (*2*) (*a*) (*ii*), the word "on" appearing in line 5, be omitted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 5 of the Bill, in item (*ii*) of paragraph (*a*) of sub-clause (*2*), for the words "for packing of" appearing in line 7, the words "for the packing of" be substituted.

Mr. PRESIDENT: The question before the House is: that in clause 5 of the Bill, in item (*ii*) of paragraph (*a*) of sub-clause (*2*), for the words "for packing of" appearing in line 7, the words "for the packing of" be substituted.

(The amendment was agreed to.)

The Hon'ble Mr. H. S. SUHRAWARDY: May I request you, Sir, to adjourn the House at this stage?

Mr. PRESIDENT: The Council stands adjourned till 2-15 p.m. on Thursday, the 27th March, 1941.

Adjournment.

The Council then adjourned till 2-15 p.m. on Thursday, the 27th March, 1941.

Members absent.

The following members were absent from the meeting held on the 24th March, 1941:—

(1) Rai Bahadur Keshab Chandra Banerjee.
(2) Mr. Kader Baksh.
(3) Mr. Shrish Chandra Chakraverti.
(4) Mr. Hamidul Huq Chowdhury.
(5) Khan Bahadur Rezzaqul Haider Chowdhury.
(6) Mr. D. J. Cohen.
(7) Mr. Lalit Chandra Das.
(8) Mr. Bankim Chandra Dutt.
(9) Mr. Narendra Chandra Datta.
(10) Mr. Kamini Kumar Dutta.
(11) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(12) Mr. Kanai Lal Goswami.
(13) Mr. Mohamed Hossain.
(14) Khan Bahadur Syed Muhammad Ghaziul Huq.
(15) Mr. Humayun Kabir.
(16) Maulana Muhammad Akram Khan.
(17) Dr. Radha Kumud Mookerjee.
(18) Mr. Ranjit Pal Chowdhury.
(19) Dr. K. S. Ray.
(20) Khan Bahadur M. Shamsuzzoha.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Thursday, the 27th March, 1941, at 2-15 p.m., being the eighteenth day of the First Session, pursuant to section 62(2)(*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Failure of crops in Burdwan and Birbhum.

64. Rai Sahib JOGENDRA NATH ROY: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state whether the Government are aware that there was failure of crops last year in the districts of Burdwan and Birbhum as a result of which a widespread distress has already begun in the subdivisions of Asansol, Kalna, Katwa and also in the interior of the district of Birbhum?

(*b*) If the answer to clause (*a*) be in the affirmative, what proportion of the paddy crop has been lost in each of the said subdivisions and district?

(*c*) What steps, if any, have the Government taken or do they propose to take for relieving the distress of the poor people in each of the subdivisions and district named above?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Owing to insufficient rainfall there has been partial failure of crops in the subdivisions of Asansol, Kalna and Katwa, but the distress is not widespread in these areas.

As regards Birbhum district, there is scarcity owing to the failure of crops.

	Per cent.
(*b*) Asansol subdivision	66
Kalna subdivision	62
Katwa subdivision	69
District of Birbhum	88

(*c*) *Burdwan.*—A sum of Rs.1,11,000 has been sanctioned for distribution as agricultural loans and a sum of Rs.36,000 has been allotted

for distribution as land improvement loans. A sum of Rs.5,000 has also been placed at the disposal of the Collector for improvement of tanks under the Bengal Tanks Improvement Act as test works. The re-excavation of tanks in areas where cultivation depends to a large extent on tank irrigation is expected to bestow a lasting benefit on the agriculturists.

The District Board has also started test relief works in the Katwa subdivision and a sum of Rs.4,000 has been spent up to the middle of this month.

A sum of Rs.6,300 has also been sanctioned by Government for distribution as gratuitous relief.

Birbhum.—Government have sanctioned a sum of Rs.20,000 for ordinary test works. A sum of Rs.84,762 has been allotted for the improvement of irrigation tanks under the Bengal Tanks Improvement Act as test works and a sum of Rs.25,000 has been sanctioned for distribution as land improvement loans for the excavation of irrigation tanks. Further, a sum of Rs.1,00,000 has been placed at the disposal of the Collector for distribution as gratuitous relief under the Bengal Famine Code. Besides this, a sum of Rs.2,000 has been sanctioned out of the accumulated interest at the credit of Joy Govind Laha's Fund which is at the disposal of Government, for charitable relief among people who though not entitled to gratuitous relief under the Famine Code because of age, special custom and physical or mental condition, etc., may still be in danger of death from starvation. To meet the scarcity of fodder a sum of Rs.25,000 has been sanctioned for purchasing straw at a cheap rate and for its distribution as agricultural loans. A sum of Rs.50,000 has been sanctioned in addition to the usual water-supply grant for sinking tube, masonry and ring wells. Steps are also being taken to distribute seed paddy as agricultural loans in areas where scarcity of seed paddy prevails.

Revisional Settlement work in Faridpur and in Barisal.

65. Mr. HUMAYUN KABIR: Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(*a*) the total number of amins engaged in the Revisional Settlement work in (*i*) Faridpur and (*ii*) Barisal;

(*b*) the total number of amins engaged in Khanapuri in these two districts;

(*c*) the total number of days spent in Khanapuri in each district;

(*d*) the total number of plots surveyed in each district up to the 31st December, 1940;

(*e*) the average daily outturn of the amins engaged in Khanapuri in each of these districts; and

(*f*) what was the average daily outturn of the amins engaged in such work at the time of Mymensingh-Garo Hill Settlement?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) The number is constantly varying. In Faridpur the number has varied in different periods from 682 to 860, and in Bakarganj from 501 to 638.

(*b*) and (*c*) Kistwar and Khanapuri are, in most cases, being done *pari passu*, and so it is not possible to state the number of amins engaged or the number of days spent exclusively in Khanapuri.

(*d*) Kistwar and Khanapuri are being done *pari passu*. The total number of plots completed in Khanapuri is as follows:—

Faridpur—1,144,466 plots.

Bakarganj—138,508 plots.

(*e*) For reasons stated in (*b*) and (*c*) above, it is not possible to give an accurate average of the daily outturn of Khanapuri for each amin. Approximately it may be taken at 40 to 50 plots a day in Bakarganj and 60 to 70 plots a day in Faridpur.

(*f*) Approximately 31 plots.

Mr. HUMAYUN KABIR: Are we then to understand that in Faridpur almost nine times the work has been done as in Bakarganj?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is a matter of arithmetic and my honourable friend can calculate that for himself.

Mr. HUMAYUN KABIR: Is it also a fact that the number of amins employed in Faridpur is only about one and half times the number employed in Barisal?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: From which part of my reply does the honourable member come to this conclusion, Sir?

Mr. HUMAYUN KABIR: From his answer (*a*).

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (After a pause) Yes, Sir, that is so.

Mr. HUMAYUN KABIR: Are we then to understand that one and half times the number of amins in Faridpur have done ten times as much work as the amins have done in Faridpur?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, it all depends on the nature of the work. In Bakarganj the record-of-rights was much older and both kistwar and khanapuri had to be done.

Mr. HUMAYUN KABIR: In both the places?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, more kistwar work had to be done in Bakarganj than in Faridpur.

Mr. HUMAYUN KABIR: Is it a fact that in Faridpur twice the amount of work or more than twice the amount of work has been done, according to Government's report, than that done in Gharo Settlement work?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice.

Mr. HUMAYUN KABIR: But the answer is clear from the information available to Government.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: How?

Mr. HUMAYUN KABIR: From answers (*e*) and (*f*).

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Which Gharo Settlement do you mean?

Mr. HUMAYUN KABIR: Mymensingh-Garo Settlement.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir, that is so.

Mr. HUMAYUN KABIR: Is the Hon'ble Minister aware that on account of this very rapid rate of work there has been great discontent in the locality?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Well, Sir, our primary consideration is accuracy of the work as well as keeping down the cost as much as possible. The rate at which the work is being done now has come down to 13 annas and 6 pies to be paid between the landlord and the tenant as against much higher rates which were one or two rupees in case of district settlements before. We had to simplify some of this procedure and to do the work as quickly as we could.

Mr. HUMAYUN KABIR: Is it not a fact that on account of unnaturally hurried rate of work in many cases, field inspection has not been possible?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I object to the words "unnaturally hurried work." The work has by no means been unnaturally hurried. Seventy plots a day is by no means an unnaturally hurried rate of work. If I am allowed to quote the opinion of a great authority on Survey and Settlement Operations, I mean the opinion of Sir Nicholas Beatson-Bell, his estimate was 100 plots a day——

Mr. HUMAYUN KABIR: Sir, I want an answer to my question. Is it not a fact that representation was made to the Hon'ble Minister that on account of this rapid rate of work local inspections have not been made? Has the Hon'ble Minister received any such representation?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, I have received representation, but there is no substance in this representation.

Mr. HUMAYUN KABIR: With regard to the question of cost, is it not better to remedy the defects rather than have defective records prepared?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I repudiate the suggestion that there have been defects in the record. I can assure the honourable member that the work is absolutely perfect.

Adjournment Motion.

Mr. PRESIDENT: Order, order. The Chair has received notice of a motion for adjournment from Mr. Sachindra Narayan Sanyal which reads as follows:—

"That this Council do adjourn its business to discuss a definite matter of urgent public importance, namely, the situation which has arisen out of Order No. 1894P., to all Printers, Publishers and Editors published in an Extraordinary Issue of the *Calcutta Gazette* of date 24th March, 1941, and received on 25th March, 1941, prohibiting publication of all matters relating to any communal disturbance in the province whether by way of news, comment, correspondence, notice, statement, advertisement, illustration or otherwise unless they are put to scrutiny and passed by the Press Advisor resulting in distinct encroachment upon the liberty of the Press, what is happening regarding the communal disturbance in Bengal."

The matter is of urgent public importance. So the Chair desires to know if anybody has objection to leave being granted for discussion of this motion.

Maulvi ABUL QUASEM: Sir, *I object to this motion being taken* up.

Mr. PRESIDENT: As objection has been taken, I would request those honourable members who are in support of the adjournment motion being moved to rise in their places. (Some honourable members rose in their places.)

Order, order. As not less than 13 members are in favour of leave being granted, the House will have a discussion on the adjournment motion.

Will the Leader of the House please indicate what time would suit the Government for discussion of the adjournment motion?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, to-day we have got important business and to-morrow is the non-official day. It may be taken up on Saturday morning——

Mr. LALIT CHANDRA DAS: Sir, on Saturday morning we have other engagements——

Mr. PRESIDENT: Order, order. Mr. Das should not interrupt when the Hon'ble Leader of the House is speaking.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, if the honourable members object to Saturday morning, that shows that they are not keen on having a discussion on the matter. We are prepared to give the earliest opportunity for discussion of the matter as my honourable friends seem to be very keen on it. But to-day we have got no time to devote to the subject; to-morrow, as I have already said, is the non-official business day. But if the honourable members are prepared to sacrifice a portion of the sitting for to-morrow, then the adjournment motion may be taken up.

Mr. HUMAYUN KABIR: Sir, we are prepared to take up the matter now.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is not possible to-day. I would suggest that it be taken up to-morrow.

Mr. LALIT CHANDRA DAS (and other members of the Congress Group): We have no objection to taking it up to-morrow.

Mr. PRESIDENT: (Addressing Khan Bahadur M. Abdul Karim), What does the Leader of the Coalition Party think of allotting Friday, which is a non-official business day, for this motion?

Khan Bahadur M. ABDUL KARIM: Sir, on the last few occasions we have not had any opportunity of discussing non-official business. So we cannot forego our right to discuss non-official business to-morrow. The matter had better be discussed on Monday, if there is no objection.

Mr. PRESIDENT: Order, order. The adjournment motion will be taken up at 2-20 p.m. on Monday next.

Council Representation on Joint Library Committee.

Mr. PRESIDENT: Under rule 2 of the Rules regulating the control and management of the Library of the Bengal Legislature, I nominate—

(1) Khan Sahib Abdul Hamid Chowdhury,

(2) Mr. W. B. G. Laidlaw, and

(3) Dr. K. S. Ray

to represent the Bengal Legislative Council, who with three members of the Bengal Legislative Assembly and one representative of the Legislative Department will form the Joint Library Committee.

The Bengal Finance (Sales Tax) Bill, 1941.

Mr. PRESIDENT: The House will now resume further consideration of the Bengal Finance (Sales Tax) Bill, 1941.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 5 of the Bill, in item (*c*) of paragraph (*a*) of sub-clause (*2*), for the words "which to the satisfaction of the Commissioner are shown," appearing in lines 1 and 2, the words "which are shown to the satisfaction of the Commissioner" be substituted.

This is only a rearrangement of the words to make the context more clear.

Mr. PRESIDENT: The question before the House is: that in clause 5 of the Bill, in item (*c*) of paragraph (*a*) of sub-clause (*2*), for the words "which to the satisfaction of the Commissioner are shown" appearing in lines 1 and 2, the words "which are shown to the satisfaction of the Commissioner" be substituted.

(The amendment was agreed to.)

Mr. HUMAYUN KABIR: Sir, I beg to move: that in clause 5 of the Bill, in sub-clause (*2*)(*b*), for the word "one" in line 1, the word "ten" be substituted.

This amendment seeks to increase the amount exempted from the tax proposed under this Bill. Taxable turn-over has been defined as the amount which remains after certain deductions, viz., those specified in (*a*) (*i*) to (*a*) (*vi*), have been made. One per centum of the balance remaining after such deductions have been made would also go outside the taxable quantum. My purpose in moving this amendment is to increase this amount from one per centum to 10 per centum. Sir, in moving this amendment I am thinking primarily of the small dealers for whom this one per cent. may mean a very small and insignificant figure. They run their business on very hard lines. The margin of profit would often not be enough to allow them to carry on their business or trade in an effective manner if the only exemption, after the previous exemptions have been made, is in respect of one per cent. of the balance. With regard to some of the exemptions allowed in clause 5(*2*)(*a*)(*i*) to (*vi*), I mean the deductions from the gross turn-over, there is no question of real exemption at all. It is only an apparent exemption. For, it only shifts the exemption from one particular stage in the process of business to another stage. In the case of the registered dealers, it may be that their goods will have been taxed either at their source or at certain other stages, *e.g.*, when they are sent out they will be taxed at the appropriate and proper place. In these stages, namely, those mentioned in 5(*2*)(*a*)(*i*) to (*vi*), it may be that he is not paying the tax directly. But in many cases he will be paying the tax indirectly and the only real exemption we get is perhaps in respect of (*a*)(*i*) and (*a*) (*iii*). Therefore, it has been provided in this paragraph (*b*) that one per centum is also to be exempted from the operation of this tax so as to allow him a margin of profit which would make it possible for him to carry on the business. As I have suggested earlier, this one per cent. may be sufficient in the case of some very large concerns, that is for those dealers who are doing business on a large scale and they may find this one per cent. adequate for their purpose. But for the very small shop-keeper and the small importer—we find that in this Bill the small shop-keeper and the very small importer have also been brought in—for them this one per cent. would certainly not be adequate. In an earlier clause which unfortunately has been accepted by this House, this figure has been specified at Rs. 10,000 a year. In relation to any dealer who imports for sale any goods into Bengal, or himself manufactures any goods for sale, the taxable quantum of 10,000 rupees means that he is importing or manufacturing goods to the extent of less than Rs. 1,000—about Rs. 900 a month. Whatever be the rate of his profit, we can assume it can never exceed 10 per cent. even in very favourable circumstances. I think honourable members will bear me out if I say that 10 per cent. is very unusual in ordinary commerce, perhaps the general rate would range from 5, 6 to 7 per cent. In the case of special type of goods, it may be a little higher, namely, 10 per cent., and that too estimating it

on the favourable side rather than on the reverse. Therefore, if the profit be 10 per cent., then on an import of Rs. 900 a month, their profit would be Rs. 90. Should we tax a businessman whose profit is so small as this? That is the reason why I am proposing this particular amendment. Government have already made certain exemptions and they should allow at least 10 per cent. of the balance remaining to go to meet some of the costs that will be incurred by small traders, so that business can be carried on profitably. Sir, I hope Government will see their way to accept this amendment.

Mr. PRESIDENT: Amendment moved: that in clause 5 of the Bill, in sub-clause (2)(*b*), for the word "one" in line 1, the word "ten" be substituted.

Khan Bahadur ATAUR RAHMAN: Sir, I am sorry Mr. Humayun Kabir has not understood the real import of this provision. The first thing is that the tax will not be paid by the dealer but by the consumer, and the registered dealer will really be the tax collector on behalf of Government. As his total turn-over is increased by 1½ per cent., his real turn-over is increased by an addition of the tax. So if he has to pay tax on that, he really pays more than he should. Therefore, the amount of tax which is grossed into his turn-over is taken in getting the taxable turn-over on which he will pay 1½ per cent. There is no concern with the smaller or bigger dealers. So, I would oppose the motion of Mr. Humayun Kabir.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I have nothing further to add. The position has been very well explained by Khan Bahadur Ataur Rahman.

Mr. PRESIDENT: The question before the House is: that in clause 5 of the Bill, in sub-clause (2)(*b*), for the word "one" in line 1, the word "ten" be substituted.

(The amendment was negatived.)

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that in clause 5 of the Bill, in sub-clause (2)(*b*), for the words "one per centum" appearing in line 1, the words "five per centum" be substituted.

Sir, I have very little to add to what has been said by my friend Mr. Humayun Kabir when he wanted to raise the per centum from one to ten. I have only adopted a *via media*, and I have suggested that 5 per cent. would be a proper rebate. If Government grant such rebate to the dealers, that will be of some assistance to them. It should

not be merely nominal. It has been said that this rebate of 1 per cent. has nothing to do with the profit which a dealer is likely to make. I have not yet understood the force of that argument. As a matter of fact, the question of profit will certainly come in. As I have already said, if the rebate is to be given, then it should be at least 5 per cent. which is the rebate that is ordinarily granted by firms to the consumers. So, I move, Sir, that the per centum be raised from one to five.

Mr. PRESIDENT: Amendment moved: that in clause 5 of the Bill, in sub-clause (2)(*b*), for the words "one per centum" appearing in line 1, the words "five per centum" be substituted.

Mr. HUMAYUN KABIR: Sir, I want to speak a few words on this motion. I want to add only one or two words to what has already been said by the mover of this amendment, in order to meet the arguments advanced by Khan Bahadur Ataur Rahman. He claims that the amount of tax which has already been paid adds to the total turn-over of the businessman and this 1 per cent. should be excluded at the time of calculating the tax which he ought to pay, and that it has nothing whatsoever to do with the profits of businessmen. I think, Sir, this argument is not sound and that for the following reasons: First of all, in many cases it is very difficult to distinguish between the different expenses and to determine the actual amount of profit except in the case of limited companies. Secondly, we must remember that, as a result of this Act, certain expenses on the part of dealers will be increased, inasmuch as they will have to keep their books in a new form and will have to submit returns within a certain prescribed period. This will mean an additional imposition on their expenditure side and therefore to this extent, the Bill, in spite of the best intentions of the Hon'ble Minister or of the honourable members who are supporting the Hon'ble Minister, will certainly eat into the very narrow margin of profit at which many of the dealers actually carry on their business. And since the Bill is going actually to eat into the margin of profit, it is proper and desirable that a further rebate should be granted, as suggested by Rai Sahib Jatindra Mohan Sen. I think that the argument that it is only a quantum-tax and has nothing to do with the profits of the dealers does not hold good because the two cannot always be kept separate. The increase in expenditure of a trader on account of this tax should be allowed for. Five per centum is a modest amount, and I hope Government will be prepared to accept it even though they have not been able to accept ten per cent.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, the object of the exemption is not to give relief to a trader or to provide him with some money to meet his expenses. The object of the exemption is to prevent

him from being mulcted twice and paying tax on the tax collected by him. One per cent. roughly represents the amount that he will so allow and deduct one per cent. in many cases.

Mr. PRESIDENT: The question before the House is: that in clause 5 of the Bill, in sub-clause (*2*)(*b*), for the words "one per centum" appearing in line 1. the words "five per centum" be substituted.

(The amendment was negatived.)

Mr. NUR AHMED: Sir, I beg to move the amendment standing in my name.

Mr. PRESIDENT: Order, order. I have considered this amendment. I hold that it is beyond the scope of the Bill. So, I rule the amendment out of order.

The question now before the House is: that clause 5, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 6.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, may I have your permission to slightly alter the draft of my amendment? In that case, it would take the following form:—

That in clause 6 of the Bill, sub-clause (*1*), after the word "conditions" in line 3, the words "and exceptions" be inserted.

This is only a formal amendment and is exactly on a par with the amendment I originally submitted, only it is briefer and more to the point.

Mr. PRESIDENT: The question before the House is: that in clause 6 of the Bill, in sub-clause (*1*), after the words "the conditions" in line 3, the words "and exceptions" be inserted.

(The amendment was agreed to.)

Khan Sahib ABDUL HAMID CHOWDHURY: I beg to move that in clause 6 of the Bill, sub-clause (*2*) be omitted.

Sir, sub-clause (*2*) of section 6 seeks to empower the Executive Government to make alterations in the Schedule which will form a very important part of the Act itself. To invest the Executive Government with the power of amending a very important part of the Act is tantamount to allowing them to encroach on the rights and privileges of the Legislature which is against all principles. Hence this amendment.

Mr. PRESIDENT: Amendment moved: that in clause 6 of the Bill, sub-clause (*2*) be omitted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, Government have no desire to encroach on the rights and privileges of the Legislature. When the Bill was first introduced, power was given to Government both to add and to substract, namely, to take away the exemption already given as well as to include new items in the exemption list. Government have voluntarily given up the power to take away exemptions introduced by the Legislature, because they think that whenever they take away the exemptions they take away the sanction of the Legislature behind it. As representatives of the masses the honourable members—the House—ought not to object to adding to the exemption list, as exemption tends to giving relief to the people, to the consumers and to the traders. During the process of the working of this Act, it is possible that we may come across cases where the cost of collection may be greater than the income; we may also come across genuine cases of hardship. Government therefore propose to keep the power in their hands to add to the exemption list. I hope Khan Sahib Abdul Hamid Chowdhury will be good enough to withdraw his amendment. This power is not likely to be abused. There are similar powers under the Electricity Act to add to the exemption list; but no one can say that the power has been abused. We have used those powers with a due sense of responsibility.

Khan Sahib ABDUL HAMID CHOWDHURY: Sir, in view of the statement just made by the honourable sponsor of the Bill, I beg leave of the House to withdraw my amendment.

Mr. PRESIDENT: Is it the pleasure of the House to allow the Khan Sahib withdraw this amendment?

(The amendment was then, by leave of the House, withdrawn.)

Mr. PRESIDENT: The question before the House is: that clause 6, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 7.

Mr. PRESIDENT: Clause 7 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 7 of the Bill, in sub-clause (*1*), for the words "while he is liable to pay tax under this Act, no dealer shall carry on business," appearing in lines 1 and 2, the following be substituted, namely:—

"No dealer shall, while being liable to pay the tax under this Act, carry on business."

Sir, I have suggested this re-arrangement to strengthen the sub-clause.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, may I suggest that the word "the," occurring in line 1, may be omitted. Hitherto in the draft the word "the" has been avoided for some reason or other and in order to bring this section into conformity with others, I suggest that the word "the" be excluded here also.

Mr. PRESIDENT: Do you accept his alteration and move it?

Khan Bahadur NAZIRUDDIN AHMAD: Though the word "the" here is very proper, yet for the sake of logic, I am agreeable to omit the word "the".

Mr. PRESIDENT: The question before the House is: that in clause 7 of the Bill, in sub-clause (*1*), for the words "while he is liable to pay tax under this Act, no dealer shall carry on business" appearing in lines 1 and 2, the following be substituted, namely:—

"No dealer shall, while being liable to pay tax under this Act, carry on business."

(The amendment was agreed to.)

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move: that in clause 7 of the Bill, in sub-clause (*6*) (*b*), for the words "during each of three consecutive years" appearing in line 2, the words "during any year" be substituted.

Sir, the Bill-clause 7 (*6*) (*b*), provides that if the gross turn-over of any business has fallen, *i.e.*, failed to exceed the taxable quantum, during each of three consecutive years, then only his license shall be cancelled. Now, Sir, this in my opinion is unjustifiably severe. The principle once a tenant always a tenant may be justifiable, but to my mind the principle of once a registered dealer always a registered dealer, at least for three years, has to my mind no justification whatsoever. Why should a dealer bear the burden of furnishing frequent returns unless the dealer has fallen on bad days and his business has declined and his taxable turn-over has gone down below the taxable quantum? I have not understood, Sir, the policy of the Government in fixing the minimum period of three successive years in spite of what my honourable friend Khan Bahadur Naziruddin Ahmad and the Hon'ble Finance Minister had said the other day. It appeared to me they had other motives in view which they were not disposed to divulge. With these words, Sir, I commend my amendment for the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in clause 7 of the Bill, in sub-clause (*6*) (*b*), for the words "during each of three consecutive years" appearing in line 2, the words "during any year" be substituted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I wish to assure the honourable members that I have no other motives than what I have already proclaimed. I do not think, Sir, that a Government can entertain any concealed motives in the matter of a financial measure. The trading dealer himself would like to know whether he should continue to collect the tax or he should not do so. This year the turnover may be Rs. 50,000; next year it may go down to Rs. 48,000, and then it may mount up to Rs. 52,000 the following year, and unless he knows that he will have to go on collecting the tax he will be in a fix. The other dealers who have to deal with him will not know whether they may sell goods to him without charging the tax from him. Other registered dealers can only charge the tax from those whose names are not on the list, that is to say, from ordinary consumers, or from unregistered dealers and therefore, Sir, it is highly important that not only the dealer himself but the rest of the trade and business should know with whom they are dealing: whether they are dealing with a person from whom they should realise the tax or whether they are dealing with a person from whom they should not collect the tax.

Mr. HUMAYUN KABIR: While conceding the force of what has been said by the Hon'ble Minister, we fail to see how this has any bearing on the question which has been raised by the mover of this amendment. It is quite true, as the Hon'ble Minister has said, that this clause will deal with particular dealers irrespective of whether he is a registered dealer or not. That question may be contested at the end of every year. This amendment only refers to the period of time and not to his character as registered dealer, because that can be determined after three years. No doubt rules will be made so that returns are given at the end of every year. Therefore, a dealer will know at the end of his financial year or the year which has been provided in the Act, whether his income comes within the taxable quantum or not. In my opinion, the reply of Mr. Suhrawardy is irrelevant to this particular amendment.

Mr. PRESIDENT: The question before the House is: that in clause 7 of the Bill, in sub-clause (*6*)(*b*), for the words "during each of three consecutive years" appearing in line 2, the words "during any year" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 7, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 8.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move: that clause 8 of the Bill be omitted.

Sir, this clause provides for voluntary registration by a dealer whose gross turn-over exceeds Rs. 10,000 but does not exceed for example Rs. 50,000 and who is therefore not liable to taxation. Had he been a registered dealer, his liability would remain for three consecutive years. He is however given the option of getting relief from the registration if he makes an application for that purpose not less than 6 months before the end of the year. I fail to understand why one should be permitted to get himself registered though he has not the requisite qualification and then he should be allowed to come in subsequently and permitted to say that I have made a mistake. What is then the policy behind the clause? By registration he will be able to purchase goods tax-free. In selling goods to a registered dealer he will not collect any tax and so will be able to sell at a cheaper rate so long as the taxable quantum does not exceed Rs. 50,000. A dealer may have a turn-over of Rs. 2 lakhs in one shop and split it up into six shops each doing business less than Rs. 50,000, may get registered and enjoy the advantage by means of this provision of the Bill. It is quite possible that some class of dealers may get the privilege of voluntary registration and some may not get it, registration being in the option of the registering authorities. With these few words, Sir, I move my amendment.

Mr. PRESIDENT: Amendment moved: that clause 8 of the Bill be omitted.

The question before the House is: that clause 8 of the Bill be omitted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 8 of the Bill, in sub-clause (*1*), for all the words and figures, beginning with "Notwithstanding that he may" and ending with "10,000 rupees may," appearing in lines 1 to 3, the following be substituted, namely:—

"Any dealer whose gross turn-over during a year exceeds 10,000 rupees may, notwithstanding that he may not be liable to pay the tax under section 4".

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I am prepared to accept the amendment if the honourable mover will omit the word "the" after the word "pay" in the third line of his amendment.

Khan Bahadur NAZIRUDDIN AHMAD: All right, Sir. It is logical that this word must go. The text has been re-arranged to make it more clear.

Mr. PRESIDENT: The question before the House is: that in clause 8 of the Bill, in sub-clause (*1*), for all the words and figures, beginning with "Notwithstanding that he may" and ending with "10,000 rupees may" appearing in lines 1 to 3, the following be substituted, namely:—

"Any dealer whose gross turn-over during a year exceeds 10,000 rupees may, notwithstanding that he may not be liable to pay tax under section 4."

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move: that in clause 8 of the Bill, in sub-clause (*3*), for the words "so long as he is registered" appearing in line 2, the words "so long as his registration remains in force" be substituted.

I submit, Sir, that this amendment makes the meaning more clear.

(The amendment was agreed to.)

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move: that in clause 8 of the Bill, for sub-clause (*4*), the following be substituted, namely:—

"(*4*) A dealer who has registered his name upon application made under this section shall not be required to register his name again, unless his name is cancelled under the provisions of this Act."

Sir, this clause concerns itself with voluntary registration and sub-clause (*4*) lays down that the registration shall be in force for a period of not less than three complete years. I do not understand, Sir, why it should be so, and that is why I have submitted that the registration should remain unless it is cancelled under the provisions of the Act. With these words, I commend my motion.

Mr. PRESIDENT: Amendment moved: that in clause 8 of the Bill, for sub-clause (*4*), the following be substituted, namely:—

"(*4*) A dealer who has registered his name upon application made under this section shall not be required to register his name again, unless his name is cancelled under the provisions of this Act."

Khan Bahadur SAIYED MUAZZAMUDDIN HOSSAIN: Sir, the object of this sub-clause is quite different from what my honourable friend has thought it to be. The object of this section is that unless three years pass no dealer will be able to ask for cancellation of his registration; that is the object. Nowhere in the Bill is it stated that the registration will come to an end after three years. Once a registered dealer, he will continue to be a registered dealer; until and unless his registration is cancelled he will continue to be a registered dealer for ever. The object is only that within a period of three years he will not be able to get his registration cancelled. With these words, I oppose this amendment.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, with regard to my amendment No. 149, may I with your permission make a little change, namely, to substitute the words "this Act" in place of the words, brackets and figure "sub-section (*3*)" in line 2?

Mr. PRESIDENT: Yes.

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move: that in clause 8 of the Bill, in sub-clause (*4*), the following words be added at the end, namely:—

"and shall remain in force thereafter unless cancelled under the provisions of this Act."

Mr. PRESIDENT: Amendment moved: that in clause 8 of the Bill, in sub-clause (*4*), the following words be added at the end, namely:—

"and shall remain in force thereafter unless cancelled under the provisions of this Act."

The question before the House is: that in clause 8 of the Bill, in sub-clause (*4*), the following words be added at the end, namely:—

"and shall remain in force thereafter unless cancelled under the provisions of this Act."

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 8, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 9.

Mr. PRESIDENT: Clause 9 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move: that in clause 9 of the Bill, after the words "like manner" appearing in line 6, the words "from time to time" be inserted.

Sir, these words will give some discretion to the Commissioner.

Mr. PRESIDENT: Amendment moved: that in clause 9 of the Bill, after the words "like manner" appearing in line 6, the words "from time to time" be inserted.

The question before the House is: that in clause 9 of the Bill, after the words "like manner" appearing in line 6, the words "from time to time" be inserted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 9, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 10.

Mr. PRESIDENT: Clause 10 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move: that in clause 10 of the Bill, for sub-clause (2), the following be substituted, namely:—

"The Commissioner may, by notice served in the prescribed manner, require every registered dealer and such other dealers as he thinks fit to furnish such returns by such dates and such dealer shall furnish the return accordingly."

Sir, this is a drafting improvement.

Mr. PRESIDENT: Amendment moved: that in clause 10 of the Bill, for sub-clause (2), the following be substituted, namely:—

"(2) The Commissioner may, by notice served in the prescribed manner, require every registered dealer and such other dealers as he thinks fit to furnish such returns by such dates, and such dealer shall furnish the return accordingly."

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, this amendment has been moved owing to an ambiguity in the wording of clause 10(2). The idea of this sub-section was that a registered dealer should

automatically furnish returns, and it is only for those dealers who are on the border-line that the Commissioner by notice served in the prescribed manner may require to do so. But the registered dealer should automatically submit the returns. The amendment of the Khan Bahadur would mean that a notice must be served even on a registered dealer. So in order to make our object clear, may I suggest the following amendment:—

"such dealers as may be required so to do by the Commissioner by notice served in the prescribed manner and every registered dealer shall furnish such returns by such dates and to such authority as may be prescribed."

Sir, I hope this will meet the point of the Khan Bahadur, and he will accept the amendment.

Mr. PRESIDENT: Amendment moved to the amendment of Khan Bahadur Naziruddin Ahmad: that in clause 10 of the Bill, for sub-clause (2), the following be substituted, namely:—

"such dealers as may be required so to do by the Commissioner by notice served in the prescribed manner and every registered dealer shall furnish such returns by such dates and to such authority as may be prescribed."

Khan Bahadur, do you accept it?

Khan Bahadur NAZIRUDDIN AHMAD: Yes, Sir.

Mr. PRESIDENT: The question before the House is: that in clause 10 of the Bill, for sub-clause (2), the following be substituted, namely:—

"such dealers as may be required so to do by the Commissioner by notice served in the prescribed manner and every registered dealer shall furnish such returns by such dates and to such authority as may be prescribed."

(The amendment was agreed to.)

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move: that in clause 10 of the Bill, in the proviso to sub-clause (2), for the words "ten per centum" in line 3, the words "twenty per centum" be substituted.

Clause 10 appears to provide that the intervals for payment of the tax should not be one year, but that they should be more frequent than one year and in the case of the returns also they should be more

frequent than one year; the privilege of yearly submission of returns has, however, been shown in the case of those dealers whose average taxable turn-over does not exceed ten per centum of their average gross turn-over. I beg to submit to this House that the frequent furnishing of returns will not only cause worry and trouble, but it is a sort of misfortune to the person who is called upon to submit such returns, while the privilege of annual return is going to benefit only those whose average taxable turn-over does not exceed 10 per cent. of his average gross turn-over. Now, by my amendment I propose to extend this benefit to those dealers as well whose taxable turn-over will come up to 20 per cent. of the average gross turn-over. This is my reason, Sir, that impelled me to move this amendment. But in this connection, Sir, I beg to make another submission and it is this. I do not exactly understand what is meant by the expression "average taxable turn-over." Average we understand. When there are two or more things an average can be taken; there the question of average comes in, but here I do not understand what the significance of the word "average" is. If it is intended to convey the meaning of "aggregate taxable turn-over" then it will certainly have meaning. But the expression "average taxable turn-over" seems to convey no tangible meaning. With these words, Sir, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in clause 10 of the Bill, in the proviso to sub-clause (2), for the words "ten per centum" in line 3, the words "twenty per centum" be substituted.

The Hon'ble Mr. H. S. SUHRAWARDY: It has been appreciated that there are many dealers who deal in goods entirely wholesale, that is to say, who deal with other registered dealers, and who, though they may be dealing in crores of rupees, may not have to pay any tax at all. Now, for them to make, say, quarterly returns will be a hardship and hence the trade has accepted the figure 10 per cent. as a compromise. It is not correct to say that ordinarily frequent submission of returns will be a source of worry and trouble. If it is appreciated that with the return the tax collected also has to be paid, it is to the advantage of the businessman to submit frequent returns and pay the tax collected by him. Otherwise, he may suddenly find at the end of the year that during the course of business he had dissipated money received by him on behalf of Government and is unable to pay the tax which he had collected from the consumer. Sir, I do not see any reason why we should increase the limit from 10 per cent. to 20 per cent. I may, however, point out that the average turn-over is the average of certain number of years.

Mr. PRESIDENT: The question before the House is: that in clause 10 of the Bill, in the proviso to sub-clause (*2*), for the words "ten per centum" in line 3, the words "twenty per centum" be substituted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 10 of the Bill, in sub-clause (*4*), for the words "at any time" appearing in line 2, the words "without undue delay" be substituted.

I submit, Sir, that this amendment introduces some elasticity.

Mr. PRESIDENT: Amendment moved: that in clause 10 of the Bill, in sub-clause (*4*), for the words "at any time" appearing in line 2, the words "without undue delay" be substituted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, may I suggest an alternative? That in clause 10 of the Bill, in sub-clause (*4*), after the words "at any time" in line 2, the following words shall be inserted, namely—

"before the date prescribed for the furnishing of the next return by him."

Sir, the idea of the Khan Bahadur is that it should be done before and not "at any time," because that would amount to delay. "Without undue delay" is rather vague. It will be difficult to ascertain exactly what is undue delay—the margin of time within which returns should be made. I think that would suffice and the Khan Bahadur will be pleased to accept my amendment.

Khan Bahadur NAZIRUDDIN AHMAD: I accept the alternative draft, Sir.

Mr. PRESIDENT: The question before the House is: that after the words "at any time" in line 2, the following words be inserted, namely:—

"before the date prescribed for the furnishing of the next return by him."

(The amendment was agreed to.)

The question before the House is: that clause 10, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 11.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 11 of the Bill, in sub-clause (*1*), the words "at any time" appearing in line 4, be omitted.

Mr. PRESIDENT: Amendment moved: that in clause 11 of the Bill, in sub-clause (*1*), the words "at any time" appearing in line 4, be omitted.

(The amendment was agreed to.)

Mr. NUR AHMED: I beg to move that: in sub-clause (*1*) of clause 11 of the Bill, for the words "an opportunity" in line 6, the words "a reasonable opportunity" be substituted.

Sir, sub-clause (*1*) of clause 11 says ".....the Commissioner shall, at any time within twelve months after the expiry of such period, after giving the dealer an oportunity of being heard," etc., and I think that this opportunity should be a reasonable opportunity. In that view, I have moved this very small amendment.

(The amendment was agreed to.)

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move: that in clause 11 of the Bill, in sub-clause (*1*), the following be added after the word "dealer" appearing at the end, namely:—

"and such judgment is to be based on such evidence as may be available in this behalf."

Sir, my intention is that the Commissioner should not base his conclusions on hearsay, or *ex parte* evidence, or any other information without it being tested by cross-examination. Therefore, I submit that the judgment of the Commissioner should be based on such evidence which is admissible, and I hope this amendment will be accepted.

Mr. PRESIDENT: Amendment moved: that in clause 11 of the Bill, in sub-clause (*1*), the following be added after the word "dealer" appearing at the end, namely:—

"and such judgment is to be based on such evidence as may be available in this behalf".

The Hon'ble Mr. H. S. SUHRAWARDY: I think this amendment is superfluous. When there is a judgment to be passed, it may be taken for granted that it will be passed on evidence, etc.

(The amendment was negatived.)

Mr. NUR AHMED: I beg to move: that in sub-clause (*2*) of clause 11 of the Bill, after the word "manufactures" in lines 3 and 4, the words "or produces" be inserted.

Sir, this is a consequential amendment on the acceptance of a similar amendment of mine to sub-clause (*5*) of clause 4 of the Bill.

(The amendment was agreed to.)

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move: that in clause 11 of the Bill, in sub-clause (*2*), for the words "three calendar years" in line 7, the words "two calendar years" be substituted.

Sir, in this sub-clause it is provided that if the Commissioner gets information that any dealer has wilfully avoided or failed to apply for registration, the Commissioner shall at any time, within three calendar years from the commencement of the Act, require him to file an application for registration, etc.

Now, in my humble opinion the period of three years is too long a time. During this long period, the dealer will have the risk to prove that he has not wilfully failed to apply for registration. Now, this period of three years is, in my opinion, a fairly long time during which evidence that he has not wilfully neglected to apply for registration may be lost; the original dealer may have died in the meantime; and his successor will find himself in a great difficulty to produce evidence that the failure was not due to any wilful negligence, but was due to some *bonâ fide* reasons. So, this period of three years should be reduced to two years in my humble opinion. No inconvenience will be caused by this amendment because the Commissioner will have ample opportunity of getting an application from the party and of assessing the due tax.

Mr. PRESIDENT: Amendment moved: that in clause 11 of the Bill, in sub-clause (*2*), for the words "three calendar years" in line 7, the words "two calendar years" be substituted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, the words "three calendar years" have been chosen because this Finance Act, to some extent, runs along the line of the Indian Income Tax Act. There we have three years. We need some period of time in order to gain experience and within three years the Commissioner should be able to discover those who ought to have registered themselves but failed to do so. It will be seen that thereafter a period of 12 months has been prescribed. We will not go back beyond 12 months in order to get hold of a person. I hope in these circumstances it will be admitted that three years initially is quite a reasonable period.

Mr. PRESIDENT: The question before the House is: that in clause 11 of the Bill, in sub-clause (*2*), for the words "three calendar years" in line 7, the words "two calendar years" be substituted.

(The amendment was negatived.)

Mr. NUR AHMED: I beg to move: that in sub-clause (*2*) of clause 11 of the Bill, for the words "an opportunity" in lines 9 and 10, the words "a reasonable opportunity" be substituted.

Mr. PRESIDENT: Amendment moved: that in cub-clause (*2*) of clause 11 of the Bill, for the words "an opportunity" in lines 9 and 10, the words "a reasonable opportunity" be substituted.

The question before the House is: that in sub-clause (*2*) of clause 11 of the Bill, for the words "an opportunity" in lines 9 and 10, the words "a reasonable opportunity" be substituted.

(The amendment was agreed to.)

Rai Sahib JATINDRA MOHAN SEN: I beg to move that in clause 11 of the Bill, in sub-clause (*2*), for the words "one and a half times" appearing in lines 15 and 16, the word "half" be substituted.

The penalty that is proposed is one and a half times of the tax which will be assessed. I think that this penalty is too severe. The penalty of half the amount of the tax which is assessed would, in my opinion, meet the requirements of the situation.

Mr. PRESIDENT: Amendment moved: that in clause 11 of the Bill, in sub-clause (*2*), for the words "one and a half times" appearing in lines 15 and 16, the word "half" be substituted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, the figure 1½ times has been taken from the Income Tax Act.

Mr. PRESIDDENT: The question before the House is: that in clause 11 of the Bill, in sub-clause (*2*), for the words "one and a half times" appearing in lines 15 and 16, the word "half" be substituted.

(The amendment was negatived.)

Khan Bahadur ATAUR RAHMAN: I beg to move: that in clause 11 of the Bill, in sub-clause (*3*), after the word "date" appearing in the last but one line, the following be inserted, namely:—

"not less than 30 days from the day of service of the notice."

Sir, it is not necessary for me to dilate on this. It is quite evident that some reasonable time should be given to the dealer to pay his tax, and for this I move my amendment.

Mr. PRESIDENT: Amendment moved: that in clause 11 of the Bill, in sub-clause (*3*), after the word "date" appearing in the last but one line, the following be inserted, namely:—

"not less than 30 days from the day of service of the notice."

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I am prepared to accept the amendment in this form, namely:—

That in sub-clause (*3*) of clause 11 of the Bill the following words be added at the end after the words "for this purpose" "and the date to be so specified shall be not less than thirty days from the date of service of such notice."

It will be seen, Sir, that the principle of the Khan Bahadur's amendment has been accepted.

Mr. PRESIDENT: Is it acceptable?

Khan Bahadur ATAUR RAHMAN: Yes, Sir.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*3*) of clause 11 of the Bill the following words be added at the end after the words "for this purpose":—

"and the date to be so specified shall not be less than thirty days from the date of service of such notice."

(The amendment was agreed to.)

Khan Bahadur ATAUR RAHMAN: Sir, I beg to move: that in clause 11 of the Bill, to sub-clause (*3*), the following proviso be added, namely:—

"Provided the Commissioner may extend the date of payment or allow to pay, by instalments, the tax assessed."

The Hon'ble Mr. H. S. SUHRAWARDY: In place of the Khan Bahadur's drafting, may I suggest the following re-drafting?—

"Provided that the Commissioner may, in respect of any particular dealer and for reasons to be recorded in writing, extend the date of such payment or allow such dealer to pay the tax and the penalty, if any due, by instalments."

Will that be acceptable to the Khan Bahadur?

Khan Bahaur ATAUR RAHMAN: Yes, Sir.

Mr. PRESIDENT: The question before the House is: that in clause 11 of the Bill, to sub-clause (*3*), the following proviso be added, namely:—

"Provided that the Commissioner may, in respect of any particular dealer and for reasons to be recorded in writing, extend the date of such payment or allow such dealer to pay the tax and the penalty, if any due, by instalments."

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 11, as amended, stand part of the Bill.

(The amendment was agreed to.)

Clause 12.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 12 of the Bill, for the words "subsequent return" appearing at the end, the words "other period" be substituted.

Mr. PRESIDENT: The question before the House is: that in clause 12 of the Bill, for the words "subsequent return" appearing at the end, the words "other period" be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 12, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 13.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 13 of the Bill, for the words, brackets and figures "Every dealer to whom the provisions of sub-section (*2*) of section 10 apply" appearing in lines 1 and 2, the following be substituted, namely:—

"Every registered dealer or other dealer to whom a notice has been given to furnish returns under sub-section (*2*) of section 10."

The Hon'ble Mr. H. S. SUHRAWARDY: May I just say one thing, Sir? We have accepted an amendment already, I mean amendment No. 159, with the redrafting as suggested by me. In that redrafting it occurs *inter alia* "by notice served," etc. Therefore, Sir, in respect of this amendment I suggest that instead of saying "to whom a notice has been given" we may have "on whom a notice has been

served." That, I think, will be in conformity with clause 10 in connection with which amendment No. 159 was made. "On whom a notice has been served"—is that acceptable to the Khan Bahadur?

Khan Bahadur NAZIRUDDIN AHMAD: Yes, Sir. It is at the same time an improvement too.

Mr. PRESIDENT: The question before the House is: that in clause 13 of the Bill, for the words, brackets and figures "Every dealer to whom the provisions of sub-section (*2*) of section 10 apply" appearing in lines 1 and 2, the following be substituted, namely:—

"Every registered dealer or other dealer on whom a notice has been served to furnish returns under sub-section (*2*) of section 10."

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 13, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 14.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 14 of the Bill, in sub-clause (*2*), for the words and comma "registers, documents" appearing in line 1, the words "registers and documents" be substituted. This supplies an obvious gap.

Mr. PRESIDENT: Amendment moved: that in clause 14 of the Bill, in sub-clause (*2*), for the words and comma "registers, documents" appearing in line 1, the words "registers and documents" be substituted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 14 of the Bill, in sub-clause (*2*), the comma after the word "or" appearing in line 2 be omitted.

Sir, I am reverting to my old habit of deleting a comma. This particular comma has been examined by all and it is agreed that this should be deleted.

Mr. PRESIDENT: Amendment moved: that in clause 14 of the Bill, in sub-clause (*2*), the comma after the word "or" appearing in line 2 be omitted.

(The amendment was agreed to.)

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move: that in clause 14 of the Bill, sub-clause (*3*) be omitted.

Sir, my reason for moving this amendment is this. The first sentence of sub-clause (*3*) of clause 14 says that "if the Commissioner has reason to suspect, etc." Now, the word "Commissioner" according to the definition also includes persons who are appointed to assist him. My submission is that such wide powers should not be conferred either upon the Commissioner or upon his subordinates and they should not be given such wide powers to be exercised on mere suspicion. Therefore, Sir, I have proposed this amendment.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, these powers have been purposely given to the Commissioner, otherwise we will never be able to know the correct situation even if a person is deliberately evading this Act. If we possess these powers we hope that shopkeepers and the dealers will not evade the Act, as they will realise that they can be easily detected. I think, Sir, that this power is salutary. We do not propose wantonly to exercise these powers; the suspicions must be reasonable: indeed, such as the Commissioner cannot possibly overlook. We have given considerable thought to this provision and are not satisfied that these powers should not be given to the Commissioner.

Mr. HUMAYUN KABIR: Sir, may I suggest a slight alteration in the amendment to meet some of the objections?

Mr. PRESIDENT: Yes, what is your amendment?

Mr. HUMAYUN KABIR: It is this: that after the words "he may" in line 3, sub-clause (*3*) of clause 14 of the Bill, the following words be inserted, namely, "for reasons to be recorded in writing for such an order."

It is quite true that Government must have the power to inspect——

Mr. PRESIDENT: I will take up your amendment after the Rai Bahadur's amendment has been disposed of.

The Hon'ble Mr. H. S. SUHRAWARDY: I think, Sir, the amendment proposed by Mr. Kabir is a reasonable one because, as I have said, we have no desire whatsoever to proceed without a reasonable suspicion——

Mr. PRESIDENT: Order, order. The question before the House is: that in clause 14 of the Bill, sub-clause (*3*) be omitted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: the amendment of Mr. Humayun Kabir, viz., that in clause 14 of the Bill, sub-clause (*3*), line 3, after the words "he may" the following words be added, viz., "for reasons to be recorded in writing for such order."

The Hon'ble Mr. H. S. SUHRAWARDY: I object to the words "in writing for such an order"; for there is no provision for order in this sub-clause; nor do I see how it comes in. But on further consideration, I think the words "in writing" may remain.

Mr. HUMAYUN KABIR: Sir, I am prepared to drop the words "for such order."

Mr. PRESIDENT: The question before the House is: the amended amendment of Mr. Humayun Kabir, namely:—

"That in clause 14 of the Bill, sub-clause (*3*), line 3, after the words 'he may,' the following words be added, viz., 'for reasons to be recorded in writing'."

(The amendment was agreed to.)

Khan Bahadur ATAUR RAHMAN: Sir, I beg to move that in clause 14 of the Bill, in sub-clause (*3*), after the word "necessary," appearing in the last line, the words "not more than seven days" be inserted.

Sir, in moving this amendment I would like to draw the attention of the House to the fact that the Bill is based on the lines of the Indian Income Tax Act, but the provisions of this Act is stricter than those of the income-tax law. The Income Tax Department deals with books of the previous year, but here in this Act the Commissioner will have to deal with books of the current year. If the current accounts of a businessman are taken over for an unlimited period of time and kept by the Commissioner, then all his business will come to a standstill. I would, therefore, propose that there should be a time-limit—a short time-limit—after which the book should be returned to the businessman, and for this I have provided that the Commissioner may keep the book up to seven days for ordinary purposes. If it was for prosecution, then of course the book might be retained for a longer period for which I have provided in my next amendment.

Mr. PRESIDENT: Amendment moved: that in clause 14 of the Bill, in sub-clause (*3*), after the word "necessary" appearing in the last line, the words "not more than seven days" be inserted.

Mr. HUMAYUN KABIR: Sir, I think a verbal amendment is necessary. Unless there is the word "for" before the word "not" in the amendment, it will not make any sense, *i.e.*, the Commissioner may seize such documents, registers or documents.....as may be necessary *for* not more than seven days. The word "for" is necessary there.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I am glad that the Khan Bahadur has directed the attention of Government to a possible misuse of the power which we are giving to the Commissioner. But it will be very difficult to provide for a time-limit of seven days in a statute, as books may be seized at different times; and may in some cases be required to be kept for more than seven days. I propose to provide in the rules that our officers will not keep the books for more than the period which is absolutely necessary. We do propose, after the Khan Bahadur has directed our attention to it, to lay down that no officer shall keep the books for more than seven days without the special authority of the Assistant Commissioner. A situation may arise when it may not be possible to return the books within seven days: in that case, the officer concerned will have to take the special permission of the Assistant Commissioner, and will have to satisfy the latter why it has not been possible for him to complete the examination of the books within seven days.

Sir, as we have accepted the principle underlying the amendment and also intend to provide for it in the rules, as I have said before, I hope the honourable member will be good enough to withdraw his amendment.

Khan Bahadur ATAUR RAHMAN: Sir, after the statement made by the Hon'ble Minister, I beg leave of the House to withdraw my amendment. I hope Government will see that the businessmen get the least possible trouble——

Mr. PRESIDENT: Order, order. In withdrawing an amendment, no speech is necessary. Is it the pleasure of the House to allow the Khan Bahadur withdraw the amendment?

(The amendment was, by leave of the House, withdrawn.)

Mr. PRESIDENT: The question before the House is: that clause 14, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 15.

Mr. PRESIDENT: The question before the House is: that clause 15 stand part of the Bill.

(The motion was agreed to.)

Clause 16.

Mr. PRESIDENT: The question before the House is: that clause 16 stand part of the Bill.

(The motion was agreed to.)

Clause 17.

Mr. PRESIDENT: The question before the House is: that clause 17 stand part of the Bill.

(The motion was agreed to.)

Clause 18.

Mr. NUR AHMED: Sir, I beg to move: that in clause 18 of the Bill, for the word "prosecution," in line 1, the word "proceeding" be substituted.

Sir, this clause gives power to the Commissioner for determining disputes, but this power of the Commissioner is circumscribed by such a condition "otherwise than in a prosecution before a court." "Otherwise than in a prosecuton before a court" may refer to a criminal court but not to a civil court. So, in order to govern both classes of courts —civil and criminal—I want to replace the word "prosecution" by the word "proceeding."

The Hon'ble Mr. H. S. SUHRAWARDY: I accept this, Sir.

Mr. PRESIDENT: The question before the House is: that in clause 18 of the Bill, for the word "prosecution" in line 1, the word "proceeding" be substituted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 18 of the Bill, in paragraph (*d*), the word "any" be inserted at the beginning. This is simply to fill up the gap caused by the absence of the word "any" in paragraph (*d*).

Mr. PRESIDENT: The question before the House is: that in clause 18 of the Bill, in paragraph (*d*), the word "any" be inserted at the beginning.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 18, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 19.

Khan Sahib ABDUL HAMID CHOWDHURY: Sir, I beg to move: that in clause 19 of the Bill, the words "under this Act" appearing after the word "made" at the beginning of the second line, be omitted.

This amendment is meant for the clarification of the interpretation of this clause.

Mr. PRESIDENT: The question before the House is: that in clause 19 of the Bill, the words "under this Act" appearing after the word "made" at the beginning of the second line, be omitted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 19 of the Bill, for the words "shall be made" appearing in lines 6 and 7, the words "shall lie" be substituted.

Rai Bahadur MANMATHA NATH BOSE: Sir, the Bill-clause says that no appeal "shall be made," whereas I think it should be "no appeal shall lie." You cannot prohibit a person from making an appeal by retaining the present wording "no appeal shall be made." Rather it should be "no appeal shall lie." That is the object of this amendment.

Mr. PRESIDENT: The question before the House is: that in clause 19 of the Bill, for the words "shall be made" appearing in lines 6 and 7, the words "shall lie" be substituted.

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 19, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 20.

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move: that in clause 20 of the Bill, in sub-clause (*1*), for the word "of" occurring for the first time in line 1, the word "from" be substituted.

The word "of" occurs after the expression "within six days." Now, it may include as well as exclude the first day, namely, the date of receipt, and therefore, Sir, it is necessary that the meaning should be clear and it would be so if the word "from" is substituted for the word "of". In this connection, Sir, I shall refer to section 11 of the Bengal General Clauses Act of 1899 where it is stated distinctly that the word "from" should be used in such cases. Therefore, Sir, I have proposed this amendment, and I hope it will be accepted by the Hon'ble Minister.

The Hon'ble Mr. H. S. SUHRAWARDY: I have not considered it, Sir, from the point of view raised by the honourable member. Can it be held up for the time being?

On second thought, Sir, I am prepared to accept this amendment.

Mr. PRESIDENT: The question before the House is: that in clause 20 of the Bill, in sub-clause (*1*), for the word "of" occurring for the first time in line 1, the word "from" be substituted.

(The amendment was agreed to.)

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move that: in clause 20 of the Bill, in sub-clause (*1*), after the words "against such assessment" in line 4, the words "or any order passed in the course of a proceeding for assessment" be inserted.

Sir, my object in moving this amendment is that all the orders which may be passed in the course of a proceeding may be subjected to an appeal. Therefore I have submitted this amendment.

Mr. PRESIDENT: Amendment moved: that in clause 20 of the Bill, in sub-clause (*1*), after the words "against such assessment" in line 4, the words "or any order passed in the course of a proceeding for assessment" be inserted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I am sorry this would lead to delay in the proceedings. It is really the final assessment which matters and appeals against intermediate orders such as production of documents, etc., are not required, because this will mean delay. The people will be most anxious to expedite matters rather than take advantage of legal flaws. So, Sir, I oppose this motion.

Mr. PRESIDENT: The question before the Houe is: that in clause 20 of the Bill, in sub-clause (*1*), after the words "against such assessment" in line 4, the words "or any order passed in the course of a proceedings for assessment" be inserted.

(The amendment was negatived.)

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move: that in clause 20 of the Bill, in sub-clause (*2*) (*a*), the word "enhance" be omitted; and after the words "annul the assessment," the words "or set aside or confirm or modify the order passed in the proceeding for assessment" be inserted.

Sir, I beg to submit that power of enhancement should not be conferred and I may mention the income-tax proceeding where the appellate court has no power to enhance it. (Khan Bahadur ATAUR RHAMAN: It has.) But there is no such section. At any rate, I submit that the power of enhancement ought not to be conferred and should not be retained in the section. So far as the other portion is concerned, I submit the reasons which I put forward in connection with the other matter, *i.e.*, clause 20 (*1*) will apply.

Mr. PRESIDENT: Amendment moved: that in clause 20 of the Bill, in sub-clause (*2*) (*a*), the word "enhance" be omitted; and after the words "annul the assessment," the words "or set aside or confirm or modify the order passed in the proceeding for assessment" be inserted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 20 of the Bill, in sub-clause (*3*), the words "good and sufficient" appearing in lines 1 and 2, be omitted.

Sir, the Bill clause says that "subject to such rules as may be prescribed and for good and sufficient reasons....." That they may be for good and sufficient reasons are always understood, but there should be definite reasons. In these circumstances, I have proposed this amendment.

Mr. PRESIDENT: Amendment moved: that in clause 20 of the Bill, in sub-clause (*3*), the words "good and sufficient" appearing in lines 1 and 2, be omitted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move: that in clause 20 of the Bill, in sub-clause (*5*), for the words "affect adversely any person" appearing in line 2, the words "affect any person adversely" be substituted.

Sir, this is only a re-arrangement of words.

(The amendment was agreed to.)

Mr. NUR AHMED: I beg to move: that in sub-clause (*5*) of clause 20 of the Bill, for the words "an opportunity" in line 3, the words "a reasonable opportunity" be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 20, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 21.

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move: that in clause 21 of the Bill, in sub-clause (*1*), for the words "within thirty days" in line 1, the words "within sixty days" be substituted.

My object is to provide for rather a long period before any steps are taken and therefore I seek to extend the period from thirty days to sixty days.

Mr. PRESIDENT: Amendment moved: that in clause 21 of the Bill, in sub-clause (*1*), for the words "within thirty days" in line 1, the words "within sixty days" be substituted.

The Hon'ble Mr. H. S. SUHRAWARDY: I accept the amendment, Sir.

(The amendment was agreed to.)

Rai Bahadur MANMATHA NATH BOSE: I beg to move: that in clause 21 of the Bill, in sub-clause (*1*), for the word "of" in line 1, the word "from" be substituted.

My reasons are the same as in the preceding amendment of mine which the Hon'ble Minister was pleased to accept.

The Hon'ble Mr. H. S. SUHRAWARDY: I accept the amendment, Sir.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move: that in clause 21 of the Bill, in sub-clause (*1*), after the word "revenue" appearing in line 2, the words "of any order" be inserted; and the words "of any order" appearing after the figure "20" in line 2, be omitted.

Sir, this is only a transposition of words from one place to its proper place, and I hope the amendment will be accepted.

(The amendment was agreed to.)

Khan Bahadur ATAUR RAHMAN: Sir, I beg to move: that in clause 21 of the Bill, in sub-clause (*1*), after the word "Act" appearing in line 4, the words "or affecting the liability of payment of tax by any dealer" be inserted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, may I suggest a redraft of this amendment? It is this: that in clause 21 of the Bill, sub-clause (*1*), line 3, in place of the words "amount of tax payable by a dealer" the following words be substituted, namely:—

"any liability of any dealer to pay tax."

I think this will meet the Khan Bahadur's point and he will accept my amendment.

Mr. PRESIDENT: The question before the House is: that in clause 21 of the Bill, sub-clause (*1*), line 3, in place of the words "amount of tax payable by a dealer" the following words shall be substituted, namely:—

"any liability of any dealer to pay tax."

(The amendment was agreed to.)

Rai Sahib JATINDRA MOHAN SEN: I beg to move: that in clause 21 of the Bill, in sub-clause (*1*), the words "accompanied by a fee of one hundred rupees" appearing in lines 4 and 5, be omitted.

Sir, the Bill-clause provides that when a dealer is dissatisfied with the order of the Board of Revenue and requires the Board of Revenue to refer the matter to the High Court, he will have to file an application with a fee of Rs. 100. I propose by this amendment that this payment of Rs. 100 should be given up, because it may have some deterrent effect on a dealer to take his case before the High Court, as he may not be in a position to pay Rs. 100 within 60 days. I hope my amendment will be accepted. My other reason is this: so far as the Income Tax Act is concerned, it does not provide for the payment of Rs. 100.

Mr. PRESIDENT: Amendment moved: that in clause 21 of the Bill, in sub-clause (*1*), the words "accompanied by a fee of one hundred rupees" appearing in lines 4 and 5, be omitted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, this amount has been inserted in order to discourage frivolous applications and appeals. I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that in clause 21 of the Bill, in sub-clause (*1*), the words "accompanied by a fee of one hundred rupees" appearing in lines 4 and 5, be omitted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move: that in clause 21 of the Bill, in sub-clause (*2*), after the word "recorded" appearing in line 1, the words "in writing" be inserted.

Sir, this question was raised just a while ago in the debate. I submit that you can record a reason without writing: it is quite possible. But this is in use in the court. So I have moved this amendment.

Mr. PRESIDENT: Amendment moved: that in clause 21 of the Bill, in sub-clause (*2*), after the word "recorded" appearing in line 1, the words "in writing" be inserted.

The question before the House is: that in clause 21 of the Bill, in sub-clause (*2*), after the word "recorded" appearing in line 1, the words "in writing" be inserted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 21, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 22.

Mr. PRESIDENT: Clause 22 stand part of the Bill.

Rai Sahib JATINDRA MOHAN SEN: I beg to move: that in clause 22 of the Bill, in sub-clause (*1*), for the words "one thousand rupees" appearing in lines 25 and 26, the words "two hundred and fifty rupees" be substituted.

Sir, the object of my amendment is to reduce the amount of penalty from Rs. 1,000 to Rs. 250. To my mind, a fine of Rs. 1,000 is too much and will not be justified in ordinary cases. So, I have proposed to reduce it to Rs. 250.

Mr. PRESIDENT: Amendment moved: that in clause 22 of the Bill, in sub-clause (*1*), for the words "one thousand rupees" appearing in lines 25 and 26, the word "two hundred and fifty rupees" be substituted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I have always been against what I consider to be cheeseparing: the figure of 1,000 or 2,000 or 250, all these will be at the discretion of the Magistrate, and I have no doubt that he would impose a fine which is commensurate with the offence. I see no reason to accept this amendment.

Mr. PRESIDENT: The question before the House is: that in clause 22 of the Bill, in sub-clause (*1*) for the words "one thousand rupees" appearing in lines 25 and 26, the words "two hundred and fifty rupees" be substituted.

(The amendment was negatived.)

Rai Sahib JOGENDRA NATH ROY: Sir, I beg to move: that in clause 22 of the Bill, in sub-clause (*1*), for the word "fifty" appearing in line 27, the word "ten" be substituted.

The penalty provided by way of daily fine is rather excessive and will act harshly on the offenders. So I want to reduce it to "ten" rupees.

Mr. PRESIDENT: Amendment moved: that in clause 22 of the Bill, in sub-clause (*1*), for the word "fifty" appearing in line 27, the word "ten" be substituted.

The Hon'ble Mr. H. S. SUHRAWARDY: My answer is the same, Sir, as before.

Mr. PRESIDENT: The question before the House is: that in clause 22 of the Bill, in sub-clause (*1*), for the word "fifty" appearing in line 27, the word "ten" be substituted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move: that in clause 22 of the Bill, for sub-clause (*2*) the following be substituted, namely:—

"(*2*) No court shall take cognizance of any offence under this Act, or under the rules made thereunder, except with the previous sanction of the Commissioner, and no court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try an offence under this section."

I have taken the language from the Code of Criminal Procedure.

The Hon'ble Mr. H. S. SUHRAWARDY: I am prepared to accept this, Sir, with just a little change. My suggestion is that instead of the words "shall try an offence under this section" occurring at the

end of this amendment, I think it will be better drafting if we have "Shall try such an offence." "Such offence" refers to the offence defined in the first line, viz., "shall take cognizance of any offence under this Act or under the rules made thereunder". So I think, Sir, "such an offence" would be better drafting in place of "an offence under this section," I don't know if the Khan Bahadur would be agreeable.

Khan Bahadur NAZIRUDDIN AHMAD: Yes, Sir, I accept the re-draft; it is better.

Mr. PRESIDENT: The question before the House is: that in clause 22 of the Bill, for sub-clause (*2*) the following be substituted, namely:—

"(*2*) No court shall take cognizance of any offence under this Act, or under the rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try such an offence."

(The amendment was agreed to.)

Mr. NUR AHMED: Sir, I beg to move that after sub-clause (*2*) of clause 22 of the Bill, the following new sub-clause be added, namely:—

"(*3*) All offences against this Act or the rules made thereunder shall be bailable and cognisable."

The offences have been mentioned, but the nature of the treatment to be accorded to them has not been mentiond. So I have, by this amendment, sought to make them bailable and cognisable.

The Hon'ble Mr. H. S. SUHRAWARDY: May I suggest, Sir, that instead of sub-clause No. (*5*) we shall put down (*3*) for the sub-clause just now moved by the honourable member and instead of the wording of the honourable member we have it like this "(*3*) All offences punishable under this Act," etc., in place of the honourable member's wording, "(*3*) All offences against this Act," etc. Is that acceptable to the honourable member?

Mr. NUR AHMED: Yes, Sir.

Mr. PRESIDENT: The question before the House is: that after sub-clause (*2*) of clause 22 of the Bill, the following new sub-clauses be added, namely:—

"(*3*) All offences punishable under this Act shall be bailable and cognisable."

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 22, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 23.

Khan Sahib ABDUL HAMID CHOWDHURY: Sir, I beg to move: that in clause 23 of the Bill, in sub-clause (*2*), after the word "the" appearing in the last line, the word "same" be inserted.

Sir, this is meant only to effect drafting improvement.

Mr. PRESIDENT: Amendment moved: that in clause 23 of the Bill, in sub-clause (*2*), after the word "the" appearing in the last line, the word "same" be inserted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, we have no objection to accept this amendment.

Mr. PRESIDENT: The question before the House is: that in clause 23 of the Bill, in sub-clause (*2*), after the word "the" appearing in the last line, the word "same" be inserted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 23, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 24.

Mr. PRESIDENT: The question before the House is: that clause 24 stand part of the Bill.

(The motion was agreed to.)

Clause 25.

Mr. PRESIDENT: The question before the House is: that clause 25 stand part of the Bill.)

(The motion was agreed to.)

Clause 26.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move: that in clause 26 of the Bill, in sub-clause (*1*), after the word "publication" in line 2, the words "and subject to the approval of the Legislature" be inserted.

Sir, the object of my amendment is quite clear. The rules will have the effect of law as if passed by the Legislature, and so it is desirable that those rules should have the approval of the Legislature. In the second place, my submission is that the rules should be subject to the criticism of both the Houses. We find that this Bill is being passed in this House without any trouble, though it was passed after a good deal of agitation and controversy in the other place. If the rules are placed before the Legislature, then there is every chance of the rules being improved. So, I propose not only that there should be a publication but also the rules should be placed before both the Houses for their approval.

Mr. PRESIDENT: Amendment moved: that in clause 26 of the Bill, in sub-clause (*1*), after the word "publication" in line 2, the words "and subject to the approval of the Legislature" be inserted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, the principle of this amendment has been thrashed out on the floor of this House time and again and will, I am certain, be discussed on every possible occasion in future as well. Sir, the condition of previous publication is a sufficient guarantee against irresponsibility and all the members of the Legislature interested, all the trades, members of the public, various chambers of commerce interested and all the interests that will be affected will have an opportunity of suggesting alterations and amendments. I can assure the honourable members that before the rules are finally framed, all objections raised by the various interests are considered and the rules are altered to meet reasonable suggestions. I think with all these safeguards it is not necessary to trouble the Legislature with the framing of the rules which will hold up the actual working of the Act.

Mr. PRESIDENT: The question before the House is: that in clause 26 of the Bill, in sub-clauses (*1*), after the word "publication" in line 2, the words "and subject to the approval of the Legislature" be inserted.

(The amendment was negatived.)

Mr. MESBAHUDDIN AHMED: With your permission, Sir, may I move a consequential amendment? It is this: that after sub-clause (*b*) of clause 26(*2*), the following sub-clause be inserted, namely:—

"(*bb*) for the period after the date of expiry of three consecutive years, referred to in sub-section (*3*) of section 4."

The Hon'ble Mr. H. S. SUHRAWARDY: There was an amendment moved and accepted to sub-clause (*3*) of clause 4. Here the

word "prescribed" is used and, therefore, we have to prescribe rules for it and this is merely a consequential amendment.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: May I move my amendment No. 297 now?

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, among the amendments tabled by Khan Bahadur Naziruddin Ahmad to clause 21, there is one item, namely, item No. XI, which I am prepared to accept, only if he will omit the word "specify".

Khan Bahadur NAZIRUDDIN AHMAD: All right, Sir. I beg to move that in clause 26 of the Bill, in paragraph (*i*) of sub-clause (*2*), for the words "the manner of" in line 1, the words "the date by which returns for any period are to be furnished and the procedure to be followed for" be substituted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move: that in clause 26 of the Bill, sub-clause (*2*), paragraph (*a*) be renumbered as paragraph (*bbb*) and transferred after paragraph (*bb*).

The reason for my amendment is that item (*a*) has reference to clause 4 of the Bill, while item (*b*) has reference to section 2; so in this state of things, paragraph (*a*) should be transferred back as (*b*), but as the amendment of Mr. Mesbahuddin Ahmed has come after (*b*) as (*bb*), therefore it should come in as (*bbb*).

The Hon'ble Mr. H. S. SUHRAWARDY: As Mr. Mesbahuddin Ahmed has moved two (*bb*) after (*b*), so Khan Bahadur Naziruddin Ahmad must needs move three (*bbb*); and I am prepared to accept the amendment.

Mr. PRESIDENT: The question before the House is: that in clause 26 of the Bill, sub-clause (*2*) paragraph (*a*) be re-numbered as paragraph (*bbb*) and transferred after paragraph (*bb*).

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move: that in clause 26 of the Bill, in sub-clause (*2*), paragraph (*h*) may be omitted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, will you kindly hold back this amendment now and allow Khan Bahadur Naziruddin Ahmad to move his amendments Nos. 298, 301, 302, 306, 307 and 308? These amendments very usefully indicate the relevant sections in the Bill under which the rules in question will be framed. Sir, I hope you will allow Khan Bahadur Naziruddin Ahmad to move his

amendments Nos. 298, 301, 302, 306, 307 and 308. These are merely additions to the relevant sub-sections of the clause. Amendment No. 298 only refers to the section under which the rules are to be prescribed and makes it easier for better drafting. There is no substantial change in it.

Mr. PRESIDENT: The Chair will allow short-notice amendments covering these points by any other honourable member.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, it is due to the misunderstanding of the Whip that I could not move these amendments.

Mr. MESBAHUDDIN AHMED: Sir, may I move the amendments?

Mr. PRESIDENT: Yes.

Mr. MESBAHUDDIN AHMED: I beg to move: that in clause 26 of the Bill, in paragraph (*a*) of sub-clause (*2*), the words, brackets, letter and figures "under clause (*b*) of sub-section (*5*) of section 4" be inserted at the end.

Mr. PRESIDENT: Amendment moved: that in clause 26 of the Bill, in paragraph (*a*) of sub-clause (*2*), the words, brackets, letter and figures "under clause (*b*) of sub-section (*5*) of section 4" be inserted at the end.

The question before the House is: that in clause 26 of the Bill, in paragraph (*a*) of sub-clause (*2*), the words, brackets, letter and figures "under clause (*b*) of sub-section (*5*) of section 4" be inserted at the end.

(The amendment was agreed to.)

Mr. MESBAHUDDIN AHMED: I beg to move: that in clause 26 of the Bill, in paragraph (*e*) of sub-clause (*2*), the words and figures "under section 7 or section 8" be added at the end.

Mr. PRESIDENT: Amendment moved: that in clause 26 of the Bill, in paragraph (*e*) of sub-clause (*2*), the words and figures "under section 7 or section 8" be added at the end.

The question before the House is: that in clause 26 of the Bill, in paragraph (*e*) of sub-clause (*2*), the words and figures "under section 7 or section 8" be added at the end.

(The amendment was agreed to.)

Mr. MESBAHUDDIN AHMED: I beg to move: that in clause 26 of the Bill, in paragraph (*f*) of sub-clause (*2*), the words and figure "under section 10" be added at the end.

Mr. PRESIDENT: Amendment moved: that in clause 26 of the Bill, in paragraph (*f*) of sub-clause (*2*), the words and figure "under section 10" be added at the end.

The question before the House is: that in clause 26 of the Bill, in paragraph (*f*) of sub-clause (*2*), the words and figure "under section 10" be added at the end.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, may I move the other amendments?

Mr. PRESIDENT: Yes.

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move: that in clause 26 of the Bill, in paragraph (*m*) in sub-clause (*2*), the words and figure "under section 15" be added at the end.

Mr. PRESIDENT: Amendment moved: that in clause 26 of the Bill, in paragraph (*m*) in sub-clause (*2*), the words and figure "under section 15" be added at the end.

The question before the House is: that in clause 26 of the Bill, in paragraph (*m*) in sub-clause (*2*), the words and figure "under section 15" be added at the end.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move: that in clause 26 of the Bill, in paragraph (*o*) of sub-clause (*2*), the words and figure "under section 20" be added at the end.

Mr. PRESIDENT: Amendment moved: that in clause 26 of the Bill, in paragraph (*o*) of sub-clause (*2*), the words and figure "under section 20" be added at the end.

The question before the House is: that in clause 26 of the Bill, in paragraph (*o*) of sub-clause (*2*), the words and figure "under section 20" be added at the end.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move: that in clause 26 of the Bill, in paragraph (*q*) of sub-clause (*2*), the words and figure "under section 23" be added at the end.

Mr. PRESIDENT: Amendment moved: that in clause 26 of the Bill, in paragraph (*q*) of sub-clause (*2*), the words and figure "under section 23" be added at the end.

The question before the House is: that in clause 26 of the Bill, in paragraph (*q*) of sub-clause (*2*), the words and figure "under section 23" be added at the end.

(The amendment was agreed to.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move: that after paragraph (*r*) of clause 26 (*2*) of the Bill, the following be added, namely:—

"(*s*) the sacred books referred to in item 21 in column 1 of the Schedule."

Mr. PRESIDENT: The question before the House is: that after paragraph (*h*) of clause 26 (*2*) of the Bill, the following be added, namely:—

"(*s*) the sacred books referred to in item 21 in column I of the Schedule."

(The amendment was agreed to.)

The question before the House is: that clause 26, as amended, stand part of the Bill.

(The motion was agreed to.)

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I am grateful to the House for the manner in which they have expedited the passage of the Bill. It is essential that the Bill should be enacted as early as possible, so that we can start taking steps to create the necessary machinery for the working of the Act. May I suggest, Sir, that you may call this House on Saturday at 8 o'clock in the morning to finish the remaining portion of the Bill?

Mr. MOHAMED HOSSAIN: I have got an amendment to the Schedule, Sir.

Mr. PRESIDENT: That will come in due time.

The Hon'ble Mr. H. S. SUHRAWARDY: On that day, Sir, there is the meeting of the Assembly at 10-30 a.m., and I hope the honourable members might just give me two hours in the morning on Saturday.

Mr. PRESIDENT: May I have your views, Mr. Ross?

Mr. J. B. ROSS: We are quite agreeable to meet at 8 o'clock in the morning of Saturday.

Mr. PRESIDENT: Order, order. This point will be decided to-morrow. The House now stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Friday, the 28th March, 1941.

Members absent.

The following members were absent from the meeting held on the 27th March, 1941:—

(1) Mr. Kader Baksh.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Mr. Shrish Chandra Chakraverti.
(4) Khan Bahadur Rezzaqul Haider Chowdhury.
(5) Mr. Narendra Chandra Datta.
(6) Mr. Kamini Kumar Dutta.
(7) Khan Bahadur Alhaj Khwaja Muhammed Esmail.
(8) Khan Bahadur Syed Muhammad Ghaziul Huq.
(9) Maulana Muhammad Akram Khan.
(10) Dr. Radha Kumud Mookerjee.
(11) Mr. Ranajit Pal Chowdhury.
(12) Khan Bahadur Muklesur Rahaman.
(13) Dr. K. S. Ray.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 28th March, 1941, at 2-15 p.m., being the nineteenth day of the First Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

SHORT-NOTICE QUESTION

Mr. PRESIDENT: There is a short-notice question tabled by Mr. Lalit Chandra Das which runs as follows:—

Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) Whether it is a fact that the communal situation both in Noakhali and Chittagong has of late much deteriorated? Have armed pickets been posted in Chittagong?

(*b*) What steps have been taken by the Government to prevent the outbreak of communal riots and for restoration of communal harmony both in Noakhali and Chittagong?

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, I am prepared to answer the short-notice question about the Dacca situation.

Mr. LALIT CHANDRA DAS: Yes, Sir, there is another short-notice question regarding Dacca of which I had given notice.

Mr. PRESIDENT: Order, order. The Hon'ble the Chief Minister has agreed to answer the following short-notice question by Mr. Lalit Chandra Das:

Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) (*i*) whether stabbing has stopped in Dacca;

(*ii*) what particular precaution has been adopted by Government for the prevention of stabbing, arson and loot there;

(*b*) (*i*) whether by now, life and property has been made secure in Dacca;

(*ii*) whether the people there can move about freely without fear of molestation;

(*iii*) whether they are getting their daily necessaries of life in food at proper prices; and

(*c*) what is the latest position?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) (*i*) and (*ii*) No instance of stabbing or arson has been reported since the 25th, and no instance of looting since the 21st. An emergency has been declared, the Eastern Frontier Rifles have been called out, a curfew order has been promulgated and the local defence scheme brought into operation.

(*b*) (*i*) and (*ii*) I refer the honourable member to my answer to (*a*) above, which gives ground for hope in this respect.

(*iii*) I have ascertained that daily necessaries of life, food, etc., are available, shops have opened, though not to the extent that we desire, but things are getting to their normal condition daily.

In this connection, I would refer the honourable member to Government communiques on the subject.

I may also inform the House that this morning I have received a trunk telephone call which says that everything is quiet and things have improved a good deal.

Mr. LALIT CHANDRA DAS: Have the colleges and schools there re-opened?

The Hon'ble Mr. A. K. FAZLUL HUQ: Yesterday they did not. As for to-day, I am not sure. I may, however, add for the information of the honourable members that peace committees have been formed in almost all *mahallas* and they are working satisfactorily.

Mr. LALIT CHANDRA DAS: Are courts being attended by lawyers and litigants?

The Hon'ble Mr. A. K. FAZLUL HUQ: Yesterday there was a slight attendance; but as for to-day I cannot say. It seems that there has been an increase in the number of people attending courts.

Rai Sahib JOGENDRA NATH ROY: Sir, yesterday I sent in a short-notice question at 2 p.m. regarding the situation at Dacca. No reply has yet been given.

Mr. PRESIDENT: It will be replied to later on.

Short-notice question regarding the situation in Noakhali and Chittagong.

Mr. LALIT CHANDRA DAS: Sir, I send in a short-notice question relating to the situation at Noakhali and Chittagong. Will the Hon'ble the Chief Minister be pleased to state when it may be possible for him to give an answer to that question?

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, as soon as I get the appropriate information, I shall be in a position to give a reply to the question. Perhaps it will be by Monday next.

Mr. LALIT CHANDRA DAS: Thank you.

Motions under rule 112 of Bengal Legislative Council Rules.

Mr. PRESIDENT: The House will now take up Non-Official Motions under rule 112 of the Bengal Legislative Council Procedure Rules. Mr. Nur Ahmed.

Mr. NUR AHMED: Sir, I beg to move: that an Address be presented to His Excellency the Governor of Bengal through the Hon'ble the President of the Bengal Legislative Council requesting His Excellency to make a strong representation to the proper authorities to revise and reduce at an early date the scales of pay for the all-India Services.

Sir, this is a very simple motion which concerns the vital interests of all Provincial Governments in India. This question of reduction in the scales of pay of the all-India Services has been agitating the minds of patriotic Indians for generations together. Since the advent of British Rule in India, unfortunately, a top-heavy administration has been introduced which is too much for a poor country like India to bear. Sir, all honourable members understand what I mean by the term "All-India Services", and from the wording of my motion it will appear that it concerns only the All-India Services, and leaves out such services as the Provincial Services, the Subordinate Services and other similar Services. The All-India Services consist of the Indian Civil Service proper, the Indian Police Service, the Foreign Service, the Indian Service of Engineers, the Indian Medical Service (Civil), certain branches of the Educational Service, the Agricultural Service and the Indian Veterinary Service. The Secretary of State has ceased to make recruitment, since 1924, under the recommendations of the Lee Commission for the following Services: The Roads and Buildings Branch of the Service of Engineers, the Indian Educational

Service and the Agricultural and Veterinary Services. Sir, these Services absorb about 40 per cent. of the Central and Provincial revenues of India. This is a calculation made by the Joint Parliamentary Committee in paragraph 316 of their report. Now, let us see what is the present and past strength of these Services. In 1924 the number of members in the Indian Civil Service was 1,350 and in 1933 it was reduced to 1,297 of whom 819 were Europeans and 478 Indians. It has been further reduced to 1,081 in December, 1940: it has been again reduced to 1,051 consisting of 555 Europeans and 496 Indians. In the Police Service it has been reduced from 732 in 1924 to 616 of which 422 are Europeans and 194 Indians. In the Services of Engineer in 1924 their number was 417 and it was reduced to 299 in 1933. In the Medical Service the number was 420 in 1924 and it has been reduced now to 298. In the Education Service it has been reduced to 175 from 421. In the Agriculture Service the number was 107 in 1924: it has been reduced to 76 in 1933. Statistics show that the total salary bill of the members of the All-India Services comes up to Rs. 100 crores a year. Sir, several Commissions and Committees were appointed to go into the question of their pay and allowances. In 1913 the Islington Committee was appointed and submitted its report but the Great War intervened and the recommendations of this Committee could not be given effect to. After the war was over, another Commission was appointed— the Lee Commission. It submitted its report in 1924 recommending revised scales of pay and allowances. The Secretary of State accepted almost all the recommendations of the Lee Commission and since then these Services have been enjoying abnormally high scales of pay and allowances—so much so that there was a great agitation over the same. But whenever any question of reduction of the cost of administration and control of these Services come in, these All-India Services stand in the way and nothing can be done.

Sir, at the time when the Government of India Act, 1935, was under consideration before the Joint Select Committee, a vigorous agitation was set up by the All-India Services and their representatives in England and it appeared that all that the Committee desired was to secure as much safety and safeguard as was possible for these Services. As a result, we find that in the Government of India Act there are many provisions for the safeguard of the interests of these Services. Sections 240 to 277 deal with the safeguarding of conditions for the privileges of these Services.

Sir, section 258 says that no reduction can be made in the number, pay and emoluments of these Services. Section 244 says that with the introduction of Provincial Autonomy in the provinces, recruitment to three important All-India Services, namely, the Indian Civil Service,

the Indian Medical Service (Civil) and the Indian Police Service will be made by the Secretary of State. Their scales of pay, their pension and everything will be dealt with by him and only the rules and regulations governing some other questions can be made by the Governor or the Governor-General as the case may be, exercising power in his individual discretion. Sir, with this state of things prevailing in India, the so-called provincial Autonomy appears to be a huge show and farce. It is said that our popular Ministers are all in all in their respective spheres but from a reading of the sections of the Act what do we find? We find that unfortunately these so-called responsible Ministers have been given practically no power to control their own so-called subordinates. They have no control even as regards small matters like that of promotion, transfer, etc. It lies with the Governor to do so by exercising power in his individual judgment.

Now, Sir, let me come to the present scales of pay. As is well-known to honourable members of the House, if we compare the scales of pay of the Imperial Services with the scales of salaries of other countries, we find there is a gulf of difference between the two. In addition to this high pay, there are innumerable allowances and other charges. Section 247 says that the Secretary of State would frame the scales of pay and rules regarding the All-India Services. He lives so far away from India and yet he is expected to fix the standards of pay, etc., which as a matter of fact are too high and heavy for India to bear. Is it not an irony of fate that no power has been given to our responsible and popular Ministers to control the All-India Services and no power has been given to the Indian Legislatures, Provincial and Autonomous Legislatures, to vote down these very high salaries and allowances of these Services though the salaries and allowances of all such officers are charged on the revenues of the province, if they are serving in any province?

From the above brief exposition, it will appear that the power of our Ministry to control the All-India Services is most insignificant. Even the right of posting and transfer of such officers does not lie with them.

Sir, the law has been framed in such a way that the control of the Provincial Government over the members of the All-India Services under their charge has been reduced to nullity. In other words, Ministers are impotent to control their so-called subordinates in these Services. As regards the fixation of scales, it is a matter of history. At the time of the East India Company, it is a known fact that the servants of the Company used to return to England with so much money, so much treasure that they were looked upon there as Nawabs. At that

time corruption prevailed very much and in order to stop the corruption they were paid so highly. The journey to India was hazardous and there were many other considerations which prompted the authorities then to fix the scales higher. Now, those conditions have changed with the advent of aeroplane, steamer and other things, and so there is no justification whatsoever to give them high salaries. Unless the scales are reduced, unless other innumerable charges and allowances are reduced, no measure of retrenchment can be effected. The total amount of salary of all these Services comes to Rs. 100 crores, calculating it on a modest basis. If there is a cut of 10 per cent. on the lowest and 50 per cent. on the highest on these salaries, and if there is a radical overhaul in the innumerable allowances and pensionary charges, there will be a saving of Rs. 20 crores, a sum that would make up the leeway in education, sanitation which the country so badly requires.

Coming to Bengal with which we are at present concerned, we find from a report of the late Finance Minister, Mr. Nalini Ranjan Sarker, that the total salary bill of all Government servants in Bengal comes up to six crores and some lakhs and out of these about 1 crore is earmarked for the All-India Services over which the Ministry have got no control.

If the scales can be reduced, then there will be a saving of Rs. 25 to 30 lakhs and this sum is very urgently needed for the improvement of the nation-building departments in Bengal, for the welfare of the teeming millions of Bengal. Sir, these high scales of salaries bear very unfavourable comparison with the salaries given to the Prime Ministers and other public servants of other countries. This is exceedingly expensive. Now, look at Japan. The Prime Minister of Japan gets a pay of Rs. 620 and other Ministers a pay of Rs. 440 per month, and a Secretary to the Government gets a pay of Rs. 375; whereas in Bengal the Chief Secretary to Government gets as much as a pay of Rs. 5,333 a month. The Governor-General of Korea gets a pay of Rs. 440 a month, while the Governor of Bengal gets a pay of Rs. 8,333 a month. Japanese officials get on an average a pay of Rs. 334, while a District Magistrate in India generally gets a pay of Rs. 1,150. The total number of officers in Bengal in the first grade services comes to 399 who receive on an average a salary of Rs. 1,301 a month. In the United States of America where the income per capita is 23 times that of India, the President used to get Rs. 11,000 a month and now Rs. 17,000 a month, whereas the Viceroy of India gets a pay of Rs. 21,333 a month. In England, where the per capita income is 317 times higher than that of India, the Prime Minister gets only £7,000 a year. Again, whereas in India the Viceroy gets rupee one

out of every 1,000 rupees collected, the Prime Minister of England gets only one rupee out of every one lakh of rupees collected. In Turkey also, the pay of the Government officers is low compared with India. Sir, I do not want to tire out the patience of the House by citing instances of the pay of officers in other countries in this world. In Turkey, a first grade officer gets a salary of Rs. 318 whereas a civil servant of the first grade in India begins at Rs. 850 a month, excluding allowances, and goes up to Rs. 5,000, a month. I have already cited the instance of the United States of America. These instances can be multiplied. It will be seen, therefore, that as a result of the unfortunate system of administration introduced here, the nation-building departments are practically starved, viz., Education, Agriculture, Public Health, Medical, and Industry. My Motion is very simple. I do not intend to specify any scale but my humble suggestion is that the proper authorities be approached to reduce the scales of pay to a reasonable extent, and by a reasonable amount. At the time this question was raised before the Joint Parliamentary Committee, it was given out that after five years of the working of the Provincial Autonomy this very question will be reconsidered. Sir, the Provincial Autonomy has been worked for four years already and it is the fifth year; so this is the most opportune time to draw the attention of the Secretary of State to this matter. I think in this House there should be no two opinions with regard to this matter. By way of explanation I may say that by moving this Motion I do not want to raise any racial or communal question. I do not cast any slur or reflection on the Indian Civil Service—the Indian Civil Servants have been serving under the Provincial Autonomy most faithfully and loyally and the progress of the autonomous Government is due to a large extent to their earnestness and co-operation. But, Sir, unless the scales are changed, there will be a great agitation—there is already some agitation. The indians are awakening to their consciousness. The Provincial Service officers are equally dutiful and do responsible work as the officers of the Indian Civil Service and other services, but with lesser pay and remuneration. It is time, therefore, that just and reasonable scales should be laid down commensurate with their duties. The scales of pay of the All-India Services should be reduced and the scales of pay of the Provincial Service officers should be raised. With these words, I commend my Motion to the acceptance of the House.

Mr. PRESIDENT: Motion moved: that an Address be presented to His Excellency the Governor of Bengal through the Hon'ble the President of the Bengal Legislative Council requesting His Excellency to make a strong representation to the proper authorities to revise and reduce at an early date the scales of pay for the All-India Services.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to support wholeheartedly the motion of my honourable friend Mr. Nur Ahmed. This demand for the reduction of pay of the All-India Services has been persistent in India, and compliance with this demand has been overdue. There was a time when perhaps the pay which at present the members of the All-India Services are drawing were justified, because at that time the journey from England to India was very hazardous and most of the members of the All-India Services were recruited from England and other European countries. At that time life in India was difficult; so they could claim at that time high rates of pay and allowance. Now, the time has changed. Not only life in India has become far more comfortable, but the journey from Europe to India has become much easier and less hazardous. If membership of the All-India Services had been confined to the Indians alone, we would have suggested that the pay of these Services should be reduced to the scales suggested for the Provincial Service officers. But as a compromise in view of the fact that 50 per cent. of these officers are still Europeans, there should be some reduction at least in the present pay of the members of All-India Services.

Nearly 50 per cent. of the All-India Services are even now being held by the Europeans and for their sake the scale of pay should be a bit more than what is fixed for the Provincial Services in India. But, Sir, in any case the pay of the Services should be commensurate with the average income of the people for whom the Services are meant. Sir, it is absurd that in India the pay of the Services should be higher, much higher, than those prevailing in other countries where the average income of the people is perhaps ten times or even 20 times more than that of the people in India. If the difference between the pay of the services and the income of the people be so great, the natural result will be that the Public Servants will look down upon the people contemptuously and will never think that they are the servants of the people and that the public at large are their masters. They will naturally think that the people are so many wretched creatures; that they are not really public servants but rather their masters and rulers. Therefore, Sir, I say that the pay of the services should be commensurate with the average income of the people at large. On the ground of the very meagre average income of a Bengalee, I think the pay of the Provincial Services also deserves drastic reduction. But, Sir, because the pay of the All-India Services is not being reduced, that has become a ground for non-reduction of the pay of the members of the Provincial Services; as otherwise the disparity would be the greater. I mean the difference between the pay of the All-India Services and the Provincial Services will be disproportionate if the pay of the Provincial Services only is reduced drastically. That is

one of the reasons, Sir, why even in respect of our own Provincial Services we cannot make any reduction to do which we have every power.

For these various reasons, Sir, it is necessary that unless the pay of the All-India Services is reduced substantially, the pay of all other services in India will remain as they are and there will be no reduction, although it is urgently necessary that there should be reduction at least in view of the general poverty, acute and chronic poverty, of the Indians at large.

With these words, Sir, I whole-heartedly support the Motion which has been so ably moved by my friend Mr. Nur Ahmed.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Government are aware that there is a strong feeling in certain quarters (Mr. HUMAYUN KABIR: In all quarters.) in the country that the pay of the All-India Services should be reduced and revised; but, Sir, the question is by no means free from difficulties. First of all, there is the problem of the proportion of British officers in the All-India Services. Now, the pay has to be adjusted with reference to the fact that the British element in the All-India Services, at least in the I.C.S., I.P.S., and some other Services has to be maintained. (Mr. HUMAYUN KABIR: They will come for very much less even.) Sir, I do not want running comments to be made in this way. If the honourable member wants to speak, I am resuming my seat and after he has finished his comments, I shall begin to speak.

Mr. PRESIDENT: I hope there will be no interruption.

Mr. HUMAYUN KABIR: On a matter of personal explanation, Sir. Running commentaries, I think, Sir, are permissible within certain limits. I think I made one or two remarks and the Hon'ble Minister, I thought, had had sufficient parliamentary experience not to lose his temper in this manner.

Mr. PRESIDENT: Order, order. Yes, Sir Bijoy.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I do not lose my temper but I certainly resent bad manners.

Mr. HUMAYUN KABIR: It is for the House to decide where the bad-manners are!

The Hon'ble Sir BIJOY PRASAD SINGH ROY: As I was submitting, Sir, there is the problem of the British element in the All-India Services. The All-India Services, as is well-known to honourable

members of this House, are controlled not by the Government of India nor by the Provincial Governments but by the Secretary of State for India. The pay will have to be adjusted or revised with reference to various factors. The pay should be attractive to draw the best talents, otherwise the efficiency of these Services will deteriorate. But there is, we admit, a feeling in this country and it is by no means a new one, that the pay of these All-India Services should be revised and reduced so that it may be commensurate with the economic condition of the people of this country. Sir, Government are not in a position to express their opinion on this question one way or the other; neither they desire to do so. But as is the practice with Government to forward the debate of Motions under section 112 to proper quarters, they will do so without any comment.

Mr. PRESIDENT: The question before the House is: that an Address be presented to His Excellency the Governor of Bengal through the Hon'ble the President of the Bengal Legislative Council requesting His Excellency to make a strong representation to the proper authorities to revise and reduce at an early date the scales of pay for the All-India Services.

(The Motion was agreed to.)

Mr. HUMAYUN KABIR: Sir, I beg to move: that an Address be presented to His Excellency the Governor of Bengal through the Hon'ble the President of the Bengal Legislative Council requesting His Excellency to move the proper authorities for definitively abandoning the proposal to abolish the Kalukhali-Bhatiapara section of the Eastern Bengal Railway.

Sir, in placing this Motion before the House, I am confident that I shall receive the support of every section. This is a matter which is of great importance in the life of three, if not of four, districts of Bengal. So far as certain parts of Faridpur are concerned, this line is the only means of communication. I think it applies equally to a very large portion of Jessore, a portion of Khulna and also to certain parts of Barisal. In moving that the wishes of the House be conveyed through you, Sir, to His Excellency that this line be permanently maintained and that all proposals to suspend it or abolish it or dismantle it be definitively given up, I wish to place certain facts before the House for its consideration. I would at the outset like to draw the attention through you of the House to the history and genesis of this railway. For a very long time there has been a considerable demand from parts of Faridpur and Barisal that there should be a railway line connecting Barisal and Faridpur with Calcutta. Over this matter there has been a great deal of public agitation in Barisal, of which at

one time the Hon'ble Mr. Fazlul Huq, who was then not a Minister of Government, was one of the leading exponents. He was the Chairman of the committee which was appointed to secure the extension of railway line to Barisal.

Up to the year 1914, many attempts were made by the people of Barisal and of Faridpur that this line should be constructed. In the year 1914, Government of Bengal thought that the extension of the Calcutta-Faridpur line to Barisal *via* Madaripur should be made. This project was lying before the Government for about 12 years —up to the year 1926. In the year 1926, it was finally dropped on two grounds: it was feared that this line may not prove remunerative and the second ground was that it might affect the health of the people of Faridpur; but a committee was appointed by the Government to go into the whole question. This committee was the Ackworth Committee and after it presented its report in the year 1927 or 1928, the project of a new line was taken up. This alternative line was the line which is now known as the Kalukhali-Bhatiapara section of the Eastern Bengal Railway. About this time, the answer to a question in the then Bengal Legislative Council seemed to imply that Government intended that this line should be extended to Barisal *via* Scindhiaghat and Madaripur.

There were certain arguments definitely in favour of Kalukhali-Bhatiapara line's extension to Barisal *via* Madaripur. Such a line would require the building of 71 miles of additional railways while any other project of connecting Barisal with Calcutta would require the building of very much longer lines and bridging of large rivers. Also, it was felt that if the line was extended *via* Kalukhali-Bhatiapara, the question of affecting adversely the health of the district of Faridpur would not arise to the same extent, because the direction of the proposed line would lie along the line of the district itself.

I may also refer to certain figures regarding the money that was spent in the building of this railway line. The Kalukhali-Bhatiapara line was constructed on the recommendations, as I said a moment ago, of the Ackworth Committee under the Five-Year Plan of the Government of India. This line was constructed on capital borrowed at 7 per cent. interest. It is 52 miles in length including the branch line of Madhukhali-Kamarkhali and it cost the Government a sum of 42½ lakhs of rupees in all. The accounting of these two lines is done separately, viz., Kalukhali-Kamarkhali Ghat and Madhukhali-Bhatiapara Ghat. These two lines have a length of 52 miles, as I have already pointed out, the first line being 25¼ miles in length and the second 26¾ miles. The capital expenditure on these two lines cannot be ascertained separately. The interest to be paid on the capital is Rs. 2,97,500, and in the years 1937-38, 1938-39 and 1939-40, the entire line showed an income respectively of Rs. 1,47,313, Rs. 1,38,511 and

Rs. 1,37,301 after allowing for the recurring expenditure and depreciation, which works out at a percentage of 3½, 3¼ and 3⅓ as net profit. The line thus has made a profit which can well be called handsome, and it cannot for a moment be suggested that this line has not been remunerative. The statement about the railway being unremunerative can only have been made because the money was borrowed at 7 per cent. Though it has been represented on certain occasions that the line is unremunerative, I think, Sir, I have shown that actually a profit of 3½ per cent. has been made almost every year. The figures are more telling still if we take the sections separately. Take the first section, the Kalukhali-Kamarkhali section. For these very years this section showed a much larger profit, viz., for this year the sum of Rs. 82,307 and for the past two years Rs. 86,514 and Rs. 80,916, which works out at 4¼ per cent., 4½ per cent. and 4 per cent. respectively. Considering the capital outlay and the length of life of the line, this profit compares very favourably with the profits earned by certain other sections of the Eastern Bengal Railway itself. Besides, if this line is now dismantled by the Central Government, then they would have to pay an extra 1½ lakhs as interest charges over and above the 1½ lakhs which they have been paying every year. Therefore, it cannot be said for a moment that this line has failed to be remunerative, in any true sense of the word "remunerative".

I would also like the House to consider that it has never been the experience anywhere that a railway line has become remunerative before at least 12 years have passed. It is with the building of a railway line that industry begins to grow up in a particular locality and commercial traffic and passenger traffic are gradually attracted. This has happened on this line as well. Almost a hundred important commercial centres have grown up since the starting of the railway, while the goods and passenger traffic has been increasing year by year. Therefore, to say that these lines are unremunerative, when only 8 years have passed and when the line has actually been making substantial profits, will not bear scrutiny for a moment. Besides, as I have already stated, the income of the railway line has been showing a progressive increase during the course of the last few years. I would also remind the House that when the line was constructed, it was intended that it should connect Barisal with Calcutta *via* Madaripur, and if that had been done, there is no doubt whatever that the line would have shown much larger profits. For, Barisal has not a single mile of railway and Barisal and Madaripur are two very productive areas in Bengal. If the line had connected Barisal with Calcutta and, there are reasons to believe that it was built with that object in view, then no doubt the profits would have been much greater. I might here also refer to the fact that the steamer companies that ply in Barisal and Madaripur area make huge profits and declare handsome dividends.

If the railway had been built as was intended, there is no doubt whatever that much of the traffic, now negotiated by the steamer companies, would have been diverted to this railway line.

Further, Sir, there is this consideration that apart from the question of remunerativeness or not, a railway line is also a public utility service; even if it be a source of occasional loss, it must nevertheless be provided for the services of the people of the locality. The railway line must be maintained for the benefit of the people of the locality if there are no other means of communication there. Sir, almost one thousand villages in this area have no other means of communication. Formerly, there was communication by way of water, but since the construction of this line, this is the only means of communication and there is no other means of communication. If this railway line is dismantled, one hundred commercial centres which exist in this area will go into ruin and these one thousand villages will be seriously affected.

Again, Sir, we find that the area which is served by this particular railway line suffers from—I would not call it "scarcity" as the Government describe it from time to time—distress and want. I would only say that this is an area which has to import its rice and other foodstuff from outside, and has to depend on imported food for the actual sustenance of the people. The railway line is the only means of its communication with outside world, and hence all its food comes by this railway line. For the last three years, the condition of this area has been very unsatisfactory: the crops failed, or almost failed. That there has not been a severe famine—that there has *not* been greater human distress, is due entirely to the fact that this railway line exists. I may also inform the House that in the year ending March, 1940, over 333,000 maunds of jute only were despatched from a few stations in this area, namely, Ramdia, Naliagram, Madhukhali, Boalmari, Bhatiapara ghat and Kamarkhali ghat, and it is expected that the amount will go up this year. I have it on the authority of a very big commercial concern that Kamarkhali ghat alone imported last year four lakhs of maunds of rice. If we take these facts into consideration, we can very easily understand the terrible sufferings that the people of the area will have to undergo if the railway line is dismantled, as was proposed last December.

I will next explain, Sir, why we raise this question at the present time. The Government of India issued a circular on 10th December, 1940, to the effect that the line would be discontinued and dismantled from the 18th December, 1940. At that time, I tried to move an adjournment motion over the matter. But the Bengal Government replied that certain Ministers of Government had been to Delhi: they had made representations on this matter but did not succeed. It was said that the Government of India wanted the line for military purposes: and that it should be dismantled also on the ground that it was not

remunerative. I think, Sir, that the Government of Bengal at that time overlooked one fact, viz., that the question of dismantling railway lines for unremunerativeness and for military purposes was considered by the Railway Board and the principles on which they should be dismantled were formulated. At a meeting of the Central Advisory Council for Railways held at New Delhi on 29th November and 2nd December, 1940, the following two principles were laid down to determine which branches of the different railways should be dismantled, viz., (1) that the branches shall be insufficiently remunerative with little prospect of giving an adequate return on capital; and (2) that the area through which the line passes shall have an alternative means of transport. I submit, Sir, that the Kalukhali-Bhatiapara line cannot be said to come under the mischief of either of these two principles. It cannot be dismantled on either of these considerations. In view of the figures which I have placed before the House, it cannot be said that the line is insufficiently remunerative with little prospect of giving an adequate return on the capital—it is quite contrary to fact. The income of a line shows progressive increase only after 12 years which is the normal period for nursing a line. The second point is that a railway line would be dismantled only if there is an alternative means of communication in the area. With regard to this point, it has been uniformly admitted that this particular area has no other means of transport. The Government of Bengal, therefore, did not represent the case for the maintenance of the line with as much force as it was its duty to do. And this is what I tried to point out through my adjournment motion referred to. Besides, the reply which the Leader of the House gave on behalf of the Government showed that Government had submitted to the demand and given up all hopes of maintaining the line. We, however, did not relax in our attempts. A large meeting was held in Calcutta on the 15th December, 1940, over which I had the honour to preside, and a deputation waited on the Chief Minister, urging upon the Bengal Government the necessity of further representations to the Government of India. Our pressure seemed to bear fruit and the Chief Minister promised to call an emergency meeting of the Cabinet on the 16th December when we would be allowed to make our representations to the Cabinet. This, however, did not materialise, for at the appointed time the Chief Minister was not to be found, and we were informed by another member of the Cabinet that the matter was closed, and attempts would be made to construct a motor road for the area. Even then, we did not lose hope and made further representations to the Government of Bengal and Government of India, pointing out the grave consequences that might follow the dismantling of the line. There was likelihood even of serious breaches of the peace and the Government of Bengal slowly realised the gravity of the situation and the line was for the time being saved. Sir, in reply to a question in the Bengal Legislative Assembly on the 10th February, 1941, the

Hon'ble Minister for Communications admitted that the locality had no other means of communication. Sir, the Government of Bengal went even so far as to admit that if this line were removed, there was the apprehension of a serious breach of the peace in the locality. The people of the locality felt that this was not merely a railway line, but so far as they were concerned, it was a real life line. Thus the Government of Bengal on the 10th February, 1941, were fully conscious of the difficulties which would arise, not only commercially and industrially but also otherwise. They awoke to the facts that if the particular line were removed, there might also be political repercussions.

Again, Sir, we find that the Member of the Railway Board in his budget speech on the 11th February, 1941, reasserted the principles formerly laid down, viz., that if lines are to be removed, such lines only would be removed where there were alternative means of communication by road. This point was brought home during the budget discussion of the Central Assembly when Sir Abdul Halim Gaznavi on behalf of Bengal pressed the point that for this area there was no other service except this railway line. There was at one time a boat service, but now people cannot go by river and there are no roads. In this way, Sir, Sir Abdul Halim Gaznavi pressed on the Central Government that the idea of dismantling this line should be given up permanently.

Sir, it has at times been suggested that even if the railway line be taken away, a motor line should be built up in its place. This question again becomes relevant when we remember the course of the agitation over the proposed dismantling of this railway line. When I pressed an adjournment motion in this House, it was said on behalf of Bengal Government that the Government had made representations to the Government of India but were unable to persuade the Government of India to give up their decision, because the latter felt that the military necessities were far more important. Sir, we were not content with this statement of the Bengal Government and we felt that the Government of Bengal could and should have made their representations with greater insistence. The agitation continued with the result that even though the line was proposed to be dismantled on the 18th December, 1940, orders were later received that it would not be dismantled on that date, but would for the time being continue. At the same time, the Government of India were not prepared to give us any assurance that the proposal of dismantling the line had been finally given up.

Well, Sir, that was the state of affairs. About the 21st or 22nd December, 1940, I do not know for what reason, the Director of Public Information, Bengal, thought it necessary to issue a communique on this matter trying to whitewash the half-hearted measures of the Bengal Government. As I have said before and as you will have noticed, this motion deals with a matter about which there can be no difference of opinion between the Government of Bnegal and the members on this

side of the House. The members of this side of the House have not only said that the Government of Bengal did not try to retain the line, but they have accused the Government for not having tried more than they actually did. Yet this precious document was issued on the 23rd December in which it was suggested that an agitation was engineered in those areas. Now, Sir, the reply which the Hon'ble Minister for Communications gave in another place on the 10th February is in itself a sufficient repudiation of the suggestion about "engineering an agitation" which occurs in this precious document which was nothing but an attempt to vilify members who do not always see eye to eye with the Government. I refer to that communique to-day as there is one statement in it which definitely weakens the case of Bengal. In this communique the following two regrettable statements occur. The first statement is correct though it is capable of explanation. But the second statement is neither capable of explanation nor is it correct. The first statement is that the Kalukhali-Bhatiapara line was unremunerative and the earning had been only 37 rupees per mile and that it fell short of working expenses by approximately Rs. 66,000 per year. I have already placed before you arguments and facts to show that this is not quite correct because there has been a progressive increase in the earnings of the railway. It is also generally admitted by railway economists all over the world that it is not possible to expect that a railway line would be remunerative before 12 years. But the second statement, Sir, is the one to which I take strong objection. It runs: "Among all the cases, Bengal's was the weakest". I do not think, Sir, that it was proper for the Government of Bengal in a communique issued under its authority to say that the case of Bengal was the weakest. This would have been regrettable at any time, but it is more so now, when we find that the Railway Board itself recognised that the two principles which shall govern the dismantling of railways shall be, (1) that there are alternative means of communication, and (2) that the line should not only be unremunerative now, but also that there should be no prospect of their becoming remunerative at any immediate future.

But I do not want to refer much to the failings of the Bengal Government, as I have already pointed out this motion is primarily one which concerns the Government of India. So far as the Government of Bengal is concerned, inspite of their initial weakness, they responded to our appeals and pressure. Now that they have taken up the case, we are thankful to them. I would here express our appreciation of the telegram which was sent by the Hon'ble Maharaja Srischandra Nandy on behalf of the Bengal Cabinet about, I think, the 21st or 22nd December, 1940, placing before the Government of India, the considered views of the Bengal Government that the line should not be dismantled, and that there was very grave opposition to

the proposal of dismantling the line. The line was thus saved in December; but since then, about the middle of February again, there was a rumour that the Government of India would dismantle the line. At any rate, the proposal for dismantling has not been definitively given up and that is the point about which we are apprehensive. Government of India are even now considering whether they should dismantle the line. I am sure that in this matter, all sides of the House, all sections of public opinion in the country will co-operate so that the line might continue. We are apprehensive because the Government of India is not yet prepared to give us the assurance that the proposal to dismantle this line shall be finally abandoned. We want this assurance from the Government of India and public feeling on the matter might be communicated to them through the motion I have moved. It is likely that some further steps in the matter may then be taken. I have already pointed out to you, Sir, the fact that there is no other means of communication in this area. It is true that at one time there were certain other means of communication in the area, there were the rivers, the Kumar and the Naria, in the locality but they have now silted up. Government have admitted that at present there is no other means of communication. I think that there is one question which the Government of India might raise. It is the question of military necessity. Even in that case, I suggest that this particular line need not be dismantled. There are many siding and extra railway lines in Rajbari, Bhatiapara Ghat siding, Issurdi including the Reserve Store Depot siding, Abdulpur, Amnura, Natore Ballast Train Siding, Santahar Yard, Parbatipur Yard, Saidpur, Haldibari Ballast Train Sidings, Ranaghat, Poradah, Naihati, Halisahar Stabling siding, Chitpur, Bhanghooraghat, Ullaparaghat, Serajganj, Bongong, Khulna and the third and fourth lines from less important stations. There are also some spare rails—about 20 miles—lying at Saraghat and Damukdiaghat which may be utilised.

Military necessities need not be satisfied only by dismantling this particular line. I submit, Sir, that there is no case for not finally giving up the idea of dismantling this Kalukhali-Bhatiapara section. It ought to be excluded from the proposal of dismantling on the principles which have been laid down by the Member of the Railway Board himself. He has repeatedly made the assertion that where there are no other means of communication he would not take the single line. As regards its unremunerativeness, I think I have placed before the House sufficient facts to show that the charge is more apparent than real.

I will before concluding revert to the necessity of extending this line up to Barisal. Ealier I have said, that its extension of only 71 miles of railways will be necessary for the purpose. This will connect not only Barisal and Madaripur, but also certain important

sections of Gopalganj where there is no means of communication on account of the deterioration in the *Bil* route and the silting up of certain rivers. Even if it is not possible now to build 71 miles to connect these places, it may be possible to link Scindiaghat, which is only 15 miles from the present alignment of the railway line. There is no doubt whatsoever that if this is done, the line would immediately begin to pay and the objections which have been at times raised about the unremunerativeness of the line would be exploded once and for all.

I might, in conclusion, refer to the remarks that were made by the Chamber of Commerce, Karachi, that it is an uneconomic policy on the part of Government to take away existing railway lines for war purposes, instead of buying new lines when the plant is available, the material is available in India itself, and the possibility of industrial expansion is also there. The taking away of railway lines in this way and then again building them up after the war would be doubly uneconomic. It would also entail on the Government of India the payment of interest charges, which would not wait, even though the railway line might be abolished. I think that all the facts together go to make up a case which is unanswerable, so far as this particular line is concerned. It is not unremunerative in the sense in which the term is to be properly understood. Even within the short space of time that this line has been functioning, it has become productive and I have no doubt that these are prospects that with time it will be more and more remunerative. Besides, there are no alternative means of communication in this part of the province. The principles which the Government of India have laid down should themselves guarantee that this railway line be excluded from the list of threatened railways and we should be definitively told that this line will not be dismantled.

Mr. PRESIDENT: Motion moved: that an Address be presented to His Excellency the Governor of Bengal through the Hon'ble the President of the Bengal Legislative Council requesting His Excellency to move the proper authorities for definitively abandoning the proposal to abolish the Kalukhali-Bhatiapara section of the Eastern Bengal Railway.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I have very great difficulty in defining the attitude of Government in regard to this motion. But I shall have to come to this conclusion that it will have to be of the nature of benevolence. I do not think that it was a matter for such a lengthy speech as the honourable mover has delivered. as the Government of Bengal has done all that it was possible for them to do in order to impress upon the Government of India the

desirability of avoiding this portion of the railway line, and the Government of India has done all that it possibly could under the circumstances to re-assure the Government of Bengal that the chances of uprooting this line are extremely remote. Their decision comes, as nearly as possible, to stating that the idea of dismantling it has been definitely abandoned, without giving up its paramount right to seize upon any line in India for war purposes. Of course, the Government of India is somewhat in a fix; it has to make up its mind as to whether the defeat of the Italians or the safety of Mesopatamia and Iraq, and ultimately the safety of India itself if of more importance than the maintenance of the Kalukhali-Bhatiapara railway branch line of the Eastern Bengal Railway, and it has attempted to meet as far as it possibly could the various representations made by the Government of Bengal which I shall detail in a little while. As I have said, I do not know why Mr. Humayun Kabir has moved this motion after the communiqué that was issued by the Government of India in which it has been pointed out that they have no desire to do away with this line and that any chance of removing this line is quite remote; it has gone further and said that it has abandoned a much longer length of lines owing to the revision of its policy and has made it clear, if one reads between the lines, that they have no intention to scrap a productive line and that this line is safe, if India is safe. Therefore, I think there is little need to trouble His Excellency by forwarding the very interesting speech of Mr. Humayun Kabir on the subject. I may now inform the House the steps that we have taken from time to time.

We first represented to the Government of India immediately after its pronouncement and the Hon'ble Chief Minister and the Hon'ble Minister for Communications and Works personally saw the Hon'ble Member for Communications in the Government of India, and explained the case of the people of Faridpur and pressed for the retention of the line. At that time very much the same argument was thrown out by the Government of India, as has been said by Mr. Humayun Kabir, namely, that although the line has been in existence for 8 years, it was still unremunerative, the earning being only Rs. 37 per mile and had fallen short of the working expenses by about Rs. 66,000 a year; and in spite of the improvement in recent times, it still was unremunerative and that if the Government of India were to abolish other lines of greater remunerative character in order to meet the paramount needs of the war, there should be nothing to say. Of course, other means of communication might be established. The railway route could be used for motor traffic. They might prepare a route for motor traffic or smaller-gauge lines. If the Government of India were to remove this railway line, they would take steps to see that an alternative communication was established. But, Sir, they adhered to their former view, whereupon the Provincial

Government (this is step No. 2) again protested and pointed out that the Bengal Ministry as a whole were opposed to the proposed scrapping of the railway. The Government of India, however, again replied by wire that war needs had grown more acute and other lines of greater importance would also have to be removed. I must state here, what will be borne out by my subsequent statement, that the Government of India had paid the utmost possible consideration to the views of the Government of Bengal and attempted to meet our views as much as possible. But they have to keep a balance and if the necessities—paramount necessities—of war compels them to remove other lines of greater remunerativeness and of less objectionable features than the Kalukhali-Bhatiapara line, it is difficult for them to justify the retention of this line only on account of the protest made by the Government of Bengal. The Government of India having replied by wire to say that they could not revise their decision, the Government of Bengal again protested (this is step No. 3) against the removal of this line. Then, Sir, the Hon'ble Chief Minister with four of his colleagues, including the Hon'ble Minister for Agriculture and Industries who also come from Faridpur and who pressed the case of Faridpur and wrote privately in his individual capacity, discussed this matter with the Member in charge of Communication in the Government of India. At that time, we could see visibly that the foundations of the Government of India were shaken by this onslaught and, although at that moment the Hon'ble Member in charge of Communication could not agree to meet our representations, one came with a certain degree of hope that we would be successful in battering down the gates of the Government of India.

Now, Sir, again the Government of India wired their final decision about the abandonment of this line and the Government of Bengal wired their final protest and the Government of India then said: all right, we postpone the dismantling of this railway line until the increasing war necessities demand its ultimate scrapping. The Hon'ble Minister for Agriculture and Industries whose home is in Faridpur and who wrote privately in his individual capacity also stressed upon the Hon'ble Member for Communications the views of the people of Faridpur and the desirability of abandoning their proposal. Sir, the Government of Bengal were not satisfied with the statement of the Government of India, namely, that of the postponement of the dismantling of this raiway line, for we wanted something still more and we took the step—again another step No. 6—urging upon them again to make up their minds and abandon once more even the proposal for the removal of the railway. On the 25th February the Government of India agreed, as I said before, as nearly as possible to abandon the proposal, saying that they have revised their policy and that there is no prospect of dismantling the line in the near future; that

the doubt, if any, is far more removed because, as a matter of fact, they have allowed another and a longer line to be retained for the present. They have added this: "above all another longer line" to make it clear to anyone who can read between the lines (Laughter), to anyone who can read that, without committing themselves to a statement, that they have abandoned it once for all and that war necessities cannot be of such importance at any time. They have given expression to their views; that you may rest in peace, the railway may rest in peace and there is no necessity for any further agitation. I do not think, Sir, really speaking, that there is any need for this representation or that His Excellency need be troubled over it but, as I have said, Sir, it is a motion under section 112 and honourable members study the subject when they come up with such motions; they like to make speeches; they want that their speeches should be reported and that they should be forwarded to the proper quarters and we shall accordingly do so.

Mr. PRESIDENT: The question before the House is: that an Address be presented to His Excellency the Governor of Bengal through the Hon'ble the President of the Bengal Legislative Council requesting His Excellency to move the proper authorities for definitively abandoning the proposal to abolish the Kalukhali-Bhatiapara section of the Eastern Bengal Railway.

(The motion was agreed to.)

NON-OFFICIAL BILLS.

The Bengal Land-revenue Sales (Amendment) Bill, 1941.

Mr. PRESIDENT: The House will now consider the Bengal Land-revenue Sales (Amendment) Bill, 1941.

Mr. NUR AHMED: Sir, I beg to move that the Bengal Land-Revenue Sales (Amendment) Bill, 1941, be taken into consideration.

Sir, honourable members may remember——

Khan Sahib ABDUL HAMID CHOWDHURY: On a point of order, Sir. In view of the fact that the motion "that the Bill be taken into consideration" is absolutely identical with the one which has been decided by this House during this session at the instance of the same honourable member, I ask for a direction from the Chair as to whether or not it offends against rule 40 of the Bengal Legislative Council Procedure Rules.

Mr. PRESIDENT: What has Mr. Nur Ahmed to say about the objection raised to his motion under rule 40 of our Rules? According to this rule, a motion must not raise a question substantially identical with the one on which the Council has given a decision during the same session. Now, the contention of the Khan Sahib is that a matter almost identical with the motion made to-day was discussed in this House during this session. So, it offends against the Rule of Repitition which is embodied in rule 40 of our Rules. What have you to say to that?

Mr. NUR AHMED: Sir, I submit that rule should not apply to this case, as this is a Bill which has come to this House as passed by the Assembly.

Mr. PRESIDENT: The question of a Bill coming from the other House does not arise. You are moving a motion which is more or less identical, substantially identical, with the one that has already been discussed by this House during this session. You can move this Bill for consideration next session but not during this session.

Mr. NUR AHMED: Sir, my humble submission is this that it is a question of the consideration of a Bill which has been passed by the Lower House and not of a resolution——

Mr. PRESIDENT: Order, order. You are now moving a motion which is substantially identical with a motion which has been considered by this House in this session. And since it offends against the Rule of Repitition, I rule it out of order.

The Court-Fees (Bengal Amendment) Bill, 1941.

Mr. NUR AHMED: Sir, I beg to move that the Court-Fees (Bengal Amendment) Bill, 1941, be taken into consideration.

Sir, I may state briefly the purpose and principle underlying this Bill. It is a very simple one-clause Bill. It wants to provide for one thing and that is that a complaint by a public servant or local authority can be filed without any court-fee but no provision has been made in the Act for exempting fee for the service of processes. The result is that although the complaint is filed without any court-fee, the process-serving fee comes to a huge amount and public bodies like municipalities and District Boards find it difficut to provide this huge court-fee in regard to process-serving. It appears, however, that the law provides for the serving of processes free, and sometimes it is found that Collectors do allow it free but there are other District Officers who take

a different view. So, I want to remove that defect by the addition of this one-clause Bill. As I have already said, it is a very simple Bill and I think similar clauses have been incorporated in other Provincial Court-Fees Acts.

With these few words, Sir, I move my motion.

Mr. PRESIDENT: Motion moved: that the Court-Fees (Bengal Amendment) Bill, 1941, be taken into consideration.

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1941.

Mr. PRESIDENT: Motion moved: that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1941.

(The motion was agreed to.)

The Bengal Pasture Bill, 1941.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move that the Bengal Pasture Bill, 1941, be referred to a Select Committee consisting of:—

(1) The Hon'ble Mr. Tamizuddin Khan, Minister in charge of the Agriculture and Industries Department,
(2) Khan Bahadur Ataur Rahman,
(3) Khan Sahib Abdul Hamid Chowdhury,
(4) Mr. Nur Ahmed,
(5) Mr. Birendra Kishore Roy Chowdhury,
(6) Rai Brojendra Mohan Maitra Bahadur,
(7) Khan Bahadur Naziruddin Ahmad,
(8) Rai Manmatha Nath Bose Bahadur,
(9) Mr. Humayun Kabir,
(10) Mr. W. B. G. Laidlaw, and
(11) the mover,

with instructions to submit their report within two months from the date of reference and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, the object of the Bill is very simple and there cannot be, I think, any objection to the principle underlying it being accepted by Government. The Bill provides that if there be any waste land lying fallow for

five years or more, it will be possible for the Government to acquire the land as waste land and reserve it for free pasturage, on payment of compensation to persons to whom the land belongs. This compensation will be paid not from public funds but from a private fund to be opened for the purpose from private contributions. Sir, this is the principle of my Bill, and I think that there cannot be any objection to this principle. There may be objections to the details as to which land can be taken as waste land and which waste land may be required or acquired for cultivation purpose. These are, however, matters of detail which can be set right by the Select Committee. But as regards the principle of the Bill there cannot, I think, be any objection, because extension of pasture land is a great necessity for Bengal and pasture land is gradually diminishing, with the result that our cattle and live-stock are deteriorating day by day. For this reason, it is absolutely necessary that something should be done to improve the pasture facilities in this province and it is with this object in view that I have sponsored this Bill. I hope, therefore, that having regard to the importance of the Bill, the Hon'ble Minister in charge of Agriculture will be pleased to accept my motion for commital of the Bill to a Select Committee, for report. With these few words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Motion moved: that the Bengal Pasture Bill, 1941, be referred to a Select Committee consisting of:—

(1) The Hon'ble Mr. Tamizuddin Khan, Minister in charge of the Agriculture and Industries Department,
(2) Khan Bahadur Ataur Rahman,
(3) Khan Sahib Abdul Hamid Chowdhury,
(4) Mr. Nur Ahmed,
(5) Mr. Birendra Kishore Roy Chowdhury,
(6) Rai Brojendra Mohan Maitra Bahadur,
(7) Khan Bahadur Naziruddin Ahmad,
(8) Rai Manmatha Nath Bose Bahadur,
(9) Mr. Humayun Kabir,
(10) Mr. W. B. G. Laidlaw, and
(11) the mover,

with instructions to submit their report within two months from the date of reference and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that—

Mr. HUMAYUN KABIR: I rise on a point of order. I find that notice of this amendment was sent at about 11 a.m. this morning. This matter has been before the House for some time and if the Hon'ble Minister wanted to move this amendment he could have sent in a notice in proper time. I think that under section 53(3) of the Rules of Procedure of this House this motion is probably not in order.

Mr. PRESIDENT: Rule 53(3) says that the period of notice of an amendment moved under sub-rule (2) shall be ten days, unless the President in exercise of his power to suspend this sub-rule allows the amendment to be moved at shorter notice. What do you say to this, Sir Bijoy?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I would beg of you to exercise your discretion in the matter. This is rather an important Bill and I would like to have public opinion on it. It would be really unfortunate if the House decided to commit itself to the principles of the Bill without having public opinion before it to guide it.

Mr. PRESIDENT: All right. I allow the Hon'ble Minister to move his amendment this time. But I hope he will give proper notice in future, as required under rule 53(3) of the Rules of this House.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: May I suggest one change in the Hon'ble Minister's amendment, Sir? Can his date 31st December, 1941, not be changed to 31st July, 1941?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Does it matter very much? We will have to get complete public opinion before the Bill can be taken up.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: But we shall have April to June to get the opinions. Besides, it is a very simple Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I maintain that it is not a simple Bill.

Mr. PRESIDENT: Sir Bijoy, you move your amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1941.

Sir, I would just draw the attention of the House to Chapter II of the Bill. In clause 3 of that Chapter it is laid down that the Collector may issue notice under this Act to the owner of the agricultural land to show cause why a particular plot of land should not be declared a waste land under this Act if the land has not been under cultivation for five years, and this is laid down in clause 2(*a*)(*i*). Now, Sir, this is rather a Hitlerian method. You take away somebody's land by operation of law. You should give some opportunity to the public to express an opinion as to whether they are prepared to submit to this sort of legislation or not.

With these words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that the Bengal Pasture Bill, 1941, be circulated for the purpose of eliciting opinion thereon by the 31st December, 1941.

The question before the House is: that the Bengal Pasture Bill, 1941, be circulated for the purpose of eliciting opinion thereon by the 31st December, 1941.

(The amendment was agreed to.)

The Bengal Non-Agricultural Tenancy Bill, 1940.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I beg to move that the Bill be referred to a Select Committee consisting of:—

(1) The Hon'ble Nawab Musharruff Hossain, Khan Bahadur, Minister in charge of the Judicial and Legislative Departments,

(2) Khan Bahadur Ataur Rahman,

(3) Mr. Nur Ahmed,

(4) Khan Sahib Abdul Hamid Chowdhury,

(5) Mr. Birendra Kishore Roy Chowdhury,

(6) Mr. Sachindra Narayan Sanyal,

(7) Rai Manmatha Nath Bose Bahadur,

(8) Rai Sahib Jogendra Nath Roy,

(9) Mr. Humayun Kabir,

(10) Mr. W. B. G. Laidlaw, and

(11) the mover,

with instructions to submit their report within two months from the date of reference and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Sir, this Bill was circulated already for public opinion and opinions have been received and now I am moving for its reference to a Select Committee. This Bill seeks to give rights to the non-agricultural tenants: it gives them protection against ejectment and also protection against undue enhancement of rent.

Sir, it is very satisfactory to find that the Bar Association of the Hon'ble High Court approve the scheme of this Bill. The Association approve of the general scheme of the Act that the tenants of non-agricultural lands should not be left absolutely at the mercy of unscrupulous landlords, but that something should be done to protect them. Besides this, there are some other opinions also which are in favour of this scheme. Government, I think, appointed a committee to enquire into the matter of the rights to be given to the tenants of the non-agricultural lands of Bengal. The report of that committee has not been published yet. In the meantime, if the Bill is committed to the Select Committee it may be considered along with the report. With these words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Motion moved: that the Bengal Non-Agricultural Tenancy Bill, 1940, be referred to a Select Committee consisting of:—

(1) The Hon'ble Nawab Musharruff Hossain, Khan Bahadur, Minister in charge of the Judicial and Legislative Departments,

(2) Khan Bahadur Ataur Rahman,

(3) Mr. Nur Ahmed,

(4) Khan Sahib Abdul Hamid Chowdhury,

(5) Mr. Birendra Kishore Roy Chowdhury,

(6) Mr. Sachindra Narayan Sanyal,

(7) Rai Manmatha Nath Bose Bahadur,

(8) Rai Sahib Jogendra Nath Roy,

(9) Mr. Humayun Kabir,

(10) Mr. W. B. G. Laidlaw, and

(11) the mover,

with instructions to submit their report within two months from the date of reference and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that the Bill be recirculated for the purpose of eliciting opinion thereon by the 31st December, 1941.

Sir, as the honourable member has himself pointed out, Government appointed a committee. The committee has just completed its labour but the report is not yet available. I hope the report will be in the hands of the Revenue Department within a very short time. Now, Government has already given relief to the tenants of non-agricultural areas pending a comprehensive legislation which they might bring forward shortly. The Legislature has passed a Temporary Provisions Bill giving protection to the tenants of non-agricultural areas. So, there is no immediate urgency for further legislation. The tenants of the non-agricultural areas have already been given sufficient protection against the unscrupulous landlords. Now, is there any justification for asking the House to commit itself to the principles of the Khan Bahadur Sahib's Bill when Government are expecting the report of the Special Committee within a very short time and when they hope that they will be able to come forward with a comprehensive Bill on the question before long. Of course, I am grateful to the Khan Bahadur for this Bill because that gives us some idea on some of the problems. So, I suggest that this Bill be re-circulated, so that we might have more opinions on this intricate question. All those opinions will be taken into consideration in framing Government's comprehensive Bill. I hope, Sir, the Khan Bahadur will agree to my proposal.

Mr. PRESIDENT: The question before the House is: that the Bill be re-circulated for the purpose of eliciting opinion thereon by the 31st December, 1941.

(The amendment was agreed to.)

The Bengal Suppression of Immoral Traffic (Amendment) Bill, 1940.

Mr. NUR AHMED: Sir, I beg for leave to introduce the Bengal Suppression of Immoral Traffic (Amendment) Bill, 1940.

Mr. PRESIDENT: The question before the House is: that leave be granted to Mr. Nur Ahmed to introduce the Bengal Suppression of Immoral Traffic (Amendment) Bill, 1940.

(The motion was agreed to.)

The Secretary then read the short title of the Bill.

Mr. PRESIDENT: The Bill is introduced.

The Bengal Hindu Religious Endowment Bill, 1941.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, at the beginning of this session I sent a notice of my intention to introduce the Bill, the Bengal Hindu Religious Endowment Bill, 1941,

and accordingly on the previous non-official day this was included in the agenda. But unfortunately, Sir, I could not be present on that date for some unavoidable reasons. The other day when I received a notice of the result of the ballot of Non-official Bills, I was rather surprised to find that my motion for the introduction of the Bill had not been included in the Order Paper of the day. I enquired and was told that fresh notice would be required. I immediately sent in a fresh notice to the office and I seek your permission to allow me to introduce the Bill to-day.

Mr. PRESIDENT: If the honourable member was not present at the time when his name was called, his previous notice automatically became cancelled and so he had to give a fresh notice for introducing his Bill. However, I permit him as a special case to move this motion.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I beg leave to introduce the Bengal Hindu Religious Endowment Bill, 1941.

Mr. PRESIDENT: The question before the House is: that leave be granted to the Raja Bahadur of Nashipur to introduce the Bengal Hindu Religious Endowment Bill, 1941.

(The motion was agreed to.)

The Secretary then read the short title of the Bill.

Mr. PRESIDENT: The Bill is introduced. Order, order.

The Council stands adjourned till 2-15 p.m. on Monday, the 31st March, 1941.

Adjournment.

The Council then adjourned till 2-15 p.m. on Monday, the 31st March, 1941.

Members absent.

The following members were absent from the meeting held on the 28th March, 1941:—

(1) Mr. Kader Baksh.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Mr. Shrish Chandra Chakraverti.
(4) Mr. Hamidul Huq Chowdhury.
(5) Khan Bahadur Rezzaqul Haider Chowdhury.
(6) Mr. Bankim Chandra Dutt.
(7) Mr. Narendra Chandra Datta.
(8) Mr. Kamini Kumar Dutta.
(9) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(10) Mr. Mohamed Hossain.
(11) Khan Bahadur Syed Muhammad Ghaziul Huq.
(12) Maulana Muhammad Akram Khan.
(13) Mr. Naresh Nath Mookerjee.
(14) Dr. Radha Kumud Mookerjee.
(15) Mr. Ranajit Pal Chowdhury.
(16) Khan Bahadur Muklesur Rahaman.
(17) Dr. K. S. Ray.
(18) Mr. J. B. Ross.
(19) Mr. W. F. Scott-Kerr.
(20) Khan Bahadur M. Shamsuzzoha.
(21) Mr. J. McFarlane.

B. G. Press—1941-42—2116A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Monday, the 31st March, 1941, at 2-15 p.m., being the twentieth day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Supply of drinking water in the Sundarban area.

54. Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister in charge of the Public Health Department be pleased to state—

(*a*) whether it is a fact that good drinking water is not at all available in the Sundarban portion (i.e., thanas Kakdwip, Mothurapore and Sagar Island) of the 24-Parganas district, and that cholera breaks out there every year, specially at Kakdwip village where hundreds of people coming from the district of Midnapore live in lodging houses;

(*b*) whether any attempt has been made for preventing the outbreak of cholera in this part; if so, what is its nature; and

(*c*) whether any tube well has been sunk or any other attempt made for supplying good drinking water in this part; if so, how many, where and at what distance from each other?

MINISTER in charge of the PUBLIC HEALTH and LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) It is not a fact that good drinking water is not available in these areas. Good drinking water is available in many places; but owing to the saline sub-soil, the maintenance of adequate supply is particularly difficult. Cholera is hyper-endemic in the area but recurrence of cholera is not confined to Kakdwip only. People coming in boats from Midnapore generally stop at the lodging houses in mouza Budhakhali and not at Kakdwip.

(*b*) Attempts have been made to check the outbreak of cholera and the usual measures of inoculation, increase of sources of water-supply, disinfection and propaganda have been resorted to. Special epidemic staff is posted by the District Board in the affected areas according to need, to supplement the ordinary work of Sanitary Inspectors.

(c) A statement (I) showing the number of tanks and tube wells constructed out of the District Fund and Government grant in the areas referred to is laid on the Table. Another statement (II showing the location and distances of the tanks and tube wells constructed out of Government grant is also laid on the table. Similar information with regard to tanks and tube wells constructed out of District Board Fund is not available.

Statement I referred to in the reply to clause (c) *of Council question No. 54.*

Name of thanas.	Sources of supply.	Out of District Board fund.	Out of Government grant.	Total.
1. Mathrapur ..	Tube well ..	2	2	2
	Tank ..	17	4	21
2. Sagar ..	Tube well ..	5	4	9
	Tank ..	8	..	8
3. Kakdwip ..	Tube well ..	5	6	11
	Tank ..	46	..	46
Total number of tanks			.. 75	
Total number of tube wells			.. 24	

Statement II referred to in the reply to clause (c) *of Council question No. 54.*

Place.	Source of water supply.	Distance from North to South.
Police-station Kakdwip.		Miles.
Taktipur	Tube well ..	..
Heyshamabad ..	Do. ..	10
Ghugudanga	Do. ..	15
Moushini	Do. ..	15
Dakshin Chandranagar ..	Do. ..	8
Patibunia	Do.	12
Police-station Sagore.		
Ramkarer Char	Tube well ..	..
Rudranagar	Do. ..	6
Manasadwip	Do. ..	8
Ganga Sagore	Do. ..	10

Place.	Source of water supply.	Distance from North to South.
Police-station Mathrapur.		Miles.
Patnighata	Tube well ..	..
Ghoradal	Tank ..	16
Paila Bhagabanpur ..	Do. ..	12
Lot No. 18, 11th portion Rajpur	Do. ..	8
Uttargangadharpur ..	Tube well ..	6
"F" plot, 2nd portion ..	Tank ..	40

Rai Bahadur MANMATHA NATH BOSE: Arising out of answer (*a*), namely, "but owing to the saline sub-soil, the maintenance of adequate supply is particularly difficult," will the Hon'ble Minister be pleased to state how long the water of the tanks and tube-wells remain in good condition and can be used and at what time it turns bad?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: During the monsoon the water remains good, but during the dry weather they do not get fresh supply of water and, therefore, these tanks and tube-wells turn bad and so saline water is taken by the people.

Rai Bahadur MANMATHA NATH BOSE: What water is then used by these people?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: They use the saline water.

Rai Bahadur MANMATHA NATH BOSE: Arising out of (*b*), what is the meaning of "special epidemic staff," who compose the staff.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Usually they are kept at the centre, and whenever they are required they are sent to the place of occurrence.

Rai Bahadur MANMATHA NATH BOSE: My question is who compose the staff.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Colonel Chatterji, the Director of Public Health.

Rai Bahadur MANMATHA NATH BOSE: Who are the members of the staff?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Sanitary Inspectors and certain doctors.

Extension of the Calcutta Improvement Trust to Howrah.

56. Alhadj Khan Bahadur Shaikh MUHAMMAD JAN: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state—

(*a*) if it is a fact that at a conference held at Darjeeling on the 24th September, 1939, under the Chairmanship of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca, it was agreed unanimously that the Government would extend the operations of the Calcutta Improvement Trust to Howrah by legislation; and

(*b*) if the answer be in the affirmative, what steps have Government taken in this connection and when the Government will bring necessary legislation to give effect to the above agreement?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: (*a*) The conference expressed its views on certain proposals, tentatively put forward by Government, regarding the financial and administrative arrangements to be made for the improvement of the town of Howrah.

(*b*) The recommendations of the conference have been considered by Government in consultation with the Board of Trustees for the Improvement of Calcutta and the Commissioners of the Howrah Municipality and steps are being taken to introduce the necessary legislation as early as possible.

Alhadj Khan Bahadur Shaikh MUHAMMAD JAN: With reference to answer (*b*) and the words "as early as possible," may I ask if the Hon'ble Minister is in a position to indicate an approximate time?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I have put down "as early as possible" as it is very difficult to draw up a suitable legislation; in view of this, Sir, "as early as possible" is the only reply that I could make with regard to the date.

Adjournment Motion.

Mr. PRESIDENT: The House will now consider the motion for adjournment tabled by Mr. Sachindra Narayan Sanyal.

Mr. SACHINDRA NARAYAN SANYAL: Mr. President, Sir, I crave the indulgence of the House to move the following motion that stands in my name:—

"This Council do adjourn its business to discuss a definite matter of urgent public importance, namely, the situation which has arisen out of order No. 1894P. to all printers, publishers, and editors, published in an extraordinary issue of the *Calcutta Gazette* of date 24th March, 1941, and received on 25th March, 1941, prohibiting publication of all matter relating to any communal disturbance in the province whether by way of news, comment, correspondence, notice, statement, advertisement, illustration or otherwise, unless they are put to scrutiny and passed by the Press Adviser, resulting in distinct encroachment on the liberty of the Press and on the right of the public to know through the press what is happening regarding the communal disturbance in Bengal."

Sir, when the question of the promulgation of the Defence of India Rules was mooted in the Central Assembly, it was apprehended that the wide powers which were being given to the Executive would be abused to the detriment of the public interest. Though the Rules were introduced as a war measure, the apprehension that they would be utilised by the Government in other spheres has come true. The recent orders of the Government of Bengal, dated the 23rd March, 1941, imposing restrictions on the Press as regards publication of news and views on the communal disturbances in Bengal, is an instance of the gross abuse of the special powers conferred on the Government.

Sir, when serious riots at Dacca broke out, everybody was anxious for news. We had our kith and kin, we had our friends and acquaintances there who were in great distress. We came to know that due to the riot situation, delivery of letters and telegrams was suspended. The only source, therefore, of having information about the people at Dacca in this great predicament was news received through the medium of the Press. But to our great bewilderment Government took resort to the Defence of India Rules to ban publication of detailed news about the Dacca situation. I have it on the authority of one of the greatest sons of Bengal, nay of India, who had personally been to Dacca to study the situation, that he was prevented by the high officials from staying at Dacca and from seeing things with his own eyes. This distinguished person is no other than Dr. Syama Prasad Mookerjee. Not only were proper facilities denied to him, but the promulgation of these orders on the Press has prevented the publication of very useful information about the situation at Dacca as was found by Dr. Mookerjee himself. In that statement Dr. Mookerjee indicated how the situation took a grave turn, due to the taking out of a Muslim funeral procession from the Nawab's palace——

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I rise on a point of order. May I know what is the statement referred to by the honourable member? If it is a statement that has not been allowed to be published in the newspapers, I do not think that the honourable member should be entitled to refer to any such statement——

Mr. SACHINDRA NARAYAN SANYAL: Sir, I am making reference to a statement prepared by Dr. Syama Prasad Mookerjee. May I read out relevant extracts from that statement in order to acquaint the House with the true situation at Dacca?

Mr. PRESIDENT: Order, order. What is the statement about?

Mr. SACHINDRA NARAYAN SANYAL: The statement has been drawn up by Dr. Syama Prasad Mookerjee and gives his own version of the situation at Dacca as he saw it. He says that although he had gone to Dacca after previous intimation to and with the approval of Government——

The Hon'ble Mr. H. S. SUHRAWARDY: Again, Sir, may I enquire as to what statement he is referring to?

Mr. PRESIDENT: Will the Hon'ble Minister please state the point of order he raises?

The Hon'ble Mr. H. S. SUHRAWARDY: My point of order is this: the honourable mover purports to be reading out a statement of Dr. Syama Prasad Mookerjee. May I know what is the statement he is referring to? Whether the statement has been published and recorded; how the statement has been handed over to the mover; is that a statement that Dr. Mookerjee intended to be printed but was not allowed to be printed under the Defence of India Rules? In short, what is the statement that the mover is referring to?

Mr. SACHINDRA NARAYAN SANYAL: The statement was sent for publication but was not published on account of this ban. After all, Sir, what is this adjournment motion about? It is only to ventilate our grievance regarding the situation in Dacca brought about by the riots. With your permission, Sir, may I read out certain relevant extracts from the statement prepared by Dr. Mookerjee.

The Hon'ble Mr. H. S. SUHRAWARDY: I would like to submit for your consideration, Sir, whether that statement is at all permissible to be placed before the House.

Mr. SACHINDRA NARAYAN SANYAL: Sir, may I read extracts from the statement of Dr. Syama Prasad Mookerjee? He says in his statement that although he had gone to Dacca after previous intimation——

The Hon'ble Mr. H. S. SUHRAWARDY: May I rise on a point of order, Sir——

Mr. PRESIDENT: Please state the point of order.

The Hon'ble Mr. H. S. SUHRAWARDY: My point of order is this: the honourable member is reading out from a statement of Dr. Syama Prasad Mookerjee. May I know what is the statement? Is it a private statement of Dr. Mookerjee, is it a statement intended to be printed in the papers and was not allowed to be printed under the Defence of India Rules? If it is so, I submit that it is not perhaps permissible to be read out on the floor of this House.

Mr. SACHINDRA NARAYAN SANYAL: The statement was sent to me by Dr. Mookerjee, because it had been banned and not allowed to be published in the newspapers. I propose, with your permission, Sir, to read out relevant portions from this statement——

The Hon'ble Mr. H. S. SUHRAWARDY: May I submit, Sir, for your consideration that that statement is not permissible to be referred to in this House. It appears from what the honourable member has just said that this is a statement which Dr. Mookerjee desired to be printed in the papers and that as it was banned under the Defence of India Rules and presumably was not printed in the papers, the honourable member taking advantage of his position as a member of the House wants to read it out here so that it may receive publicity in the newspapers as part of the proceedings of the Council.

Mr. PRESIDENT: The Hon'ble Minister will please refer me to the rules under which he objects to the reading of the statement. The Chair can prevent the statement from being read out only if it involves infringement of any of the rules.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, the statement comes under the following—that if it promotes communal disturbance or communal hatred or tends to increase communal tension, it comes under the mischief of this order.

Mr. SACHINDRA NARAYAN SANYAL: I submit, Sir, that this statement should be allowed. I do not know what the Hon'ble Minister is referring to——

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, it appears that the honourable member is referring to a statement of Dr. Syama Prasad Mookerjee——

Mr. LALIT CHANDRA DAS: You will hear it when it is read out by Mr. Sanyal.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, may I know if it is a private statement handed over to him by Dr. Mookerjee to be read out on the floor of the House? If that is so, Sir, it is not, I submit, permissible to be read out—a statement of an outsider to be read out by a member as a statement made by the honourable member.

Mr. PRESIDENT: Section 71 (*1*) of the Government of India Act, 1935, lays down that subject to the provisions of the Statute and to the Rules, freedom of speech is guaranteed in the Legislature. The Chair can interfere only if the speech offends against the provisions of the Statute or of any rule of this House. So, please refer me to any section of the Statute or Rule which supports your contention.

Mr. SACHINDRA NARAYAN SANYAL: As I was going to say, Dr. Mookerjee said in his statement,—"Although I had gone to Dacca after previous intimation and with the approval of Government and although I had a talk with the Hon'ble Chief Minister this morning before his departure from Dacca, attempts were made by high local officials to prevent me from staying at Dacca and from seeing things with my own eyes. Ultimately, however, such attempts proved futile, and I did have an opportunity to visit the places of occurrence myself and also of coming into contact with various people belonging to both communities. One important fact emerged as a result of my discussion with different people and that was that on Tuesday last before the situation had taken a grave turn, the local authorities permitted the dead body of a Mussalman to be handed over to the Mussalmans for burial. Permission for taking out the procession was not actually given, but I had it on unimpeachable authority that the body was taken to the house of the Nawab Bahadur of Dacca——

Mr. PRESIDENT: Order, order. Since the Hon'ble Minister cannot object to the reading of the statement under any of our Rules and yet considers that in the interest of peace and tranquillity of the province the statement should not be made public, the only remedy that the Chair can provide is to ask the Press as well as the public galleries to be cleared.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I think that in the public interest the extract from Dr. Mookerjee's statement just read out should not be published, because the Government takes a very serious view of the situation—the situation is just under their control—and it would be most unfortunate if the situation again deteriorates because of the publication of the statement.

Mr. PRESIDENT: I have considered all aspects of this question. The honourable member cannot be prevented from reading out the statement under any of our Rules or the Statute. At the same time, the Chair appreciates the Government's objection that the statement should not go to the public in the interest of Law and Order. So, I order the Press and the public galleries to be cleared.

(At this stage the Press and public galleries were cleared.)

The Hon'ble Mr. H. S. SUHRAWARDY: Now the very purpose of the honourable member's reading out the statement is frustrated. (Ironical cheers.)

Mr. SACHINDRA NARAYAN SANYAL: Why?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: You understand it better than myself.

Mr. SACHINDRA NARAYAN SANYAL: Sir, the statement continues: "one important fact emerges as a result of my discussion with the different people and that was that on Tuesday last before that situation had taken a grave turn, the local authorities permitted the dead body of a Muslim to be handed over to the Muslims for burial. Permission for taking out procession was not actually given, but I had it on unimpeachable authority that the body was taken to the house of the Nawab Bahadur of Dacca and later on a procession of several thousands of Muslims paraded some of the important streets of Dacca with slogans of a most provocative character. That same night burning and looting of houses in Chowk Bazar started on an organised scale. A peculiar thing to be noticed was that although attacks on residential quarters had been made and residential houses had been damaged in some places, the main attack on property was concentrated on those portions of the town"——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I rise on a point of order, Sir? I fail to understand what purpose would be served by the honourable member's reading out a statement which Dr. Shyama Prasad Mookerjee wanted to make available to the public through the Press? His point seems to be that the Government have promulgated

certain orders by which they have restricted the liberty of the Press. That is the subject-matter of his adjournment motion. But is it necessary for that purpose to read out a statment of Dr. Shyama Prasad Mookerjee? How the two things fit in and how that is pertinent, Sir, I fail to understand.

Mr. PRESIDENT: He is making the point that this information which ordinarily would have been available to the public through the Press has now been banned by the orders complained of. The honourable members of this House have certainly much larger powers inside the Chamber than the members of the public. Yet the Chair will see to it that the contents of this statement may not be known to the public at present.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If that is your ruling, Sir, I submit to it.

Mr. SACHINDRA NARAYAN SANYAL: Only a few lines more, Sir. "A peculiar thing to be noticed was although attacks had been made and residential houses had been damaged in some places, the main attack on property was concentrated in those portions of the town where big Hindu houses were situated. Buildings after buildings in Chawk Bazar, Maulvi Bazar, Rai Sahib Bazar had been burnt and looted in broad daylight obviously when the police force was there in charge of these areas. It was in some of these areas that we came across looting by Mussalmans, though section 144 was enforced there. Cloth shops, stationery shops, furniture shops were destroyed and looted in a manner which is unbelievable, unless one visits these places and sees things with one's own eyes. In these areas Mussalmans burnt the houses of the Hindus."

This statement, I may submit, Sir, did not contain an iota of exaggeration but touched bare facts. Even this statement was banned to our great surprise. (The Hon'ble Mr. H. S. SUHRAWARDY: You did not go to Dacca, how do you know all these?) You did not go either. However, I do not want to be disturbed by interruptions. (The Hon'ble Sir BIJOY PRASAD SINGH ROY: Is it to your surprise or to Dr. Shyama Prasad Mookerjee's surprise?) Such actions on the part of the Government defeat the very end which the Government had in view, namely, avoidance of communal feeling and bitterness, because suppression of the publication of correct news does not only give wide powers to the executive to be abused, but also encourages commission of crimes and spread of wild rumours calculated to raise alarm amongst the public. Then again, the clause relating to censorship of the riot news by the Press Adviser has added insult to injury inflicted on the nationalist Press of Bengal. Sir, the Press Act and other existing

pieces of legislation in India have given too much powers to the Government to check publication of irresponsible news. If the Government had sufficient evidence they had wide powers, through normal channel, to bring the defaulters to book. But instead of doing so, they have gagged and humiliated the Press under Special powers. There has been a chorus of resentment from the Press and the public against promulgation of these orders and subsequent retrograde measures, which unfortunately is beyond my scope to discuss to-day.

Sir, when the Provincial Press Advisory Boards were set up with much pomp and show, we thought that they would be taken into confidence when such drastic steps were contemplated. We have not heard whether this committee, which includes such experienced journalists as Mr. Wordsworth, Mr. Suresh Chandra Majumdar and Mr. Tushar Kanti Ghose were consulted in this matter. I anticipate that the Hon'ble Minister in charge of Law and Order will contend that but for the promulgation of these orders, the riot situation would have grown worse. I would point out to him that he has been wrongly advised, and that the banning of true news has, indeed, made the position worse still. We do not know if Government had imposed any restriction on the news-agencies like the Associated Press of India and the United Press of India. But the meagre information supplied by these agencies, coupled with the fiat on the Press, had left the public to draw their own conclusion. There is a wide popular feeling that the administration had completely broken down at Dacca and that no attempts were being made for the recovery of looted properties. If Government aimed at dissemination of correct news, they should have taken the Press into their confidence, set up a committee of editors with a view to ensuring publication of harmless but detailed news. But it is unfortunate that a wrong policy has been taken and the newspaper editors have been placed in the most awkward position.

Sir, I do not wish to take up the time of the House any further as many other members are anxious to participate in the discussion. I would only urge that there is yet time to rectify the blunder. I have purposely refrained from commenting on the discriminating Press policy of the Government. I have deliberately omitted to bring forward glaring instances of mischief that have been caused as a result of that policy. There is yet time to mend, and I fervently hope that Government will reconsider its decision and allow full publicity to authentic news so that the public might be appraised of the real situation and appreciate to what extent the Government was offering protection to the citizens of Dacca, irrespective of religion or community. Sir, an independent Press is a great national asset, the co-operation of which no civilised Government can afford to lose or do without. Even in England to-day such a drastic step has not been resorted to. Every one of my colleagues will realise that liberty of the Press and the liberty

of the people go side by side. The communal tension in this province is a matter of deep concern to all of us, and I therefore urge upon the Government to revise their decision and withdraw the order in their own interest as well as in the national interest.

With these few words, I commend my motion to the consideration of the House, and I hope that members of all parties will be good enough to associate themselves with me in this matter and not help in the continuance of this outrageous policy of Government.

Mr. PRESIDENT: Motion moved: that this Council do adjourn its business to discuss a definite matter of urgent public importance, namely, the situation which has arisen out of order No. 1894P., to all printers, publishers and editors published in an extraordinary Issue of the *Calcutta Gazette* of date the 24th March, 1941, and received on the 25th March, 1941, prohibiting publication of all matter relating to any communal disturbance in the province whether by way of news, comment, correspondence, notice, statement, advertisement, illustration or otherwise unless they are put to scrutiny and passed by the Press Advisor resulting in distinct encroachment upon the liberty of the press and on the right of the public to know through the press what is happening regarding the communal disturbance in Bengal.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Sir, I have just now learnt from my friends that a certain statement has been made by the honourable mover of the motion for adjournment. May I request him to repeat that statement in order that I may refute it? As I was not in the Chamber when the statement was being made, I am compelled to seek your help in this way, Sir. I understand that the statement was to the effect that a burial procession was taken out from the "Ashan Manzil" and that it paraded the streets of Dacca. I want to know from the honourable mover whether that is the statement he had made.

Mr. SACHINDRA NARAYAN SANYAL: I look to you for guidance, Sir.

Mr. PRESIDENT: It is a pity that the Hon'ble Nawab Bahadur was not present when the statement was made. But the honourable mover may make the statement available to the Nawab Bahadur so that he may reply to it.

Mr. SACHINDRA NARAYAN SANYAL: Shall I read out the extracts again, Sir?

Mr. PRESIDENT: No, you need not read them again; you simply send the copy of that statement to the Nawab Bahadur.

Mr. SACHINDRA NARAYAN SANYAL: Can I not read it again? The House would be perhaps interested to hear it again.

Mr. PRESIDENT: The House may not desire to hear the statement again. The Nawab Bahadur was absent and he desires to know the contents of the statement read out by you.

Mr. SACHINDRA NARAYAN SANYAL: But, Sir, I want to have it back at once.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Certainly, you will get it back. I am not going to keep it.

(The statement was then made over to the Hon'ble Nawab Bahadur of Dacca.)

Mr. PRESIDENT: You may reply to the statement after perusal.

The Hon'ble Nawab Khwaja HIBIBULLAH Bahadur, of Dacca: Thank you, Sir.

Mr. PRESIDENT: Is there no other speaker?

Khan Bahadur NAZIRUDDIN AHMAD: Sir, we are extremely grateful to the honourable the mover for tabling this adjournment motion. The abstract principle behind this motion is the upholding of the liberty of the Press and this liberty of the Press is nothing but a corollary of the liberty of the people. Therefore, a motion brought before the House for upholding the liberty of the Press cannot but evoke a large amount of sympathy from all sections of the House. But, Sir, it has also to be remembered that the liberty of the Press is a means to an end, the end being peace and good order amongst the people. Every one knows in what delicate times we are living at the present moment. In Dacca the situation is very delicate and we do not know which side is to blame. Possibly both sides were more or less to blame. The point is—will any good be served by disseminating sensational communal news at this juncture to the public? The public are very sensitive and excitable and the communal question is a very sore point in the province to-day. It is regrettable that some newspapers somehow or other allow themselves to be swayed, not by a sense of balance or the maintenance of good order and peace among the communities, but by a desire to disseminate sensational accounts which sell like hot cakes among the people who are already highly strung in this respect. In these circumstances, I think the Government is right in trying to control the news-service. I submit, Sir, that the adjournment motion is textually wrong in material particulars. It says that the Government

has prohibited the publication of *all matters* relating to any communal disturbance and so on. But the very notification which has been referred to in the adjournment motion has provided that certain matters are allowed to be published and the adjournment motion takes no notice of these exceptions in the notification. The exceptions are that all matters issued by order or under the authority of Government can be published, and this has been ignored in the adjournment motion. Secondly, news published by the Associated Press of India and the United Press of India have not been banned—the publication of these is not prohibited. Thirdly, any matter otherwise exempted by general or special order of Government in this behalf has been allowed to be published. The motion totally ignores all these. So, the adjournment motion is textually incorrect. It gives a very wrong impression of the Government notification.

The point now, however, is—what is wholesome news for both the communities in these troublesome times? Anybody who loves the country, anyone who loves the Hindus and Muslims, cannot but regret the kind of mischievous news which is served out to the public. We know, Sir, that there is always a craving for sensational news and in these difficult days it should be the last thing which should be served out to the public. In these circumstances, as a lover of the Hindus and Muslims, as a man who wants to preserve peace and harmony between the two great communities, I would request the honourable the mover not to press this adjournment motion to a vote. He has, of course, done a great service in bringing it before the House. I can assure him of our feeling that the ban should not last longer than it is absolutely necessary. I submit that Government should not keep this ban a day longer than is absolutely essential: so long as the danger remains and the tendency to fight lasts, so long as the situation remains serious, the ban should remain and not a day more than is absolutely necessary this ban should be allowed to exist. For the present the modified ban is a necessary evil and should remain and I, therefore, oppose the motion.

Mr. NUR AHMED: Sir, I wish to say a few words on the motion under consideration. It is very much to be regretted that a member of the Congress has brought this motion which is likely to aggravate the situation that is prevailing in Dacca and some other districts of Bengal. Sir, I think the circular which is under discussion is quite justified. Government had shown considerable leniency towards the Press but failed to check news which were calculated to poison the minds of the ignorant people. Sir, I am a reader of some of the dailies of Bengal, and I find from the reading of some of them that from the inauguration of Provincial Autonomy the communally-minded papers have been regularly propagating communal feelings and hatred in the

country. While some of our Ministers were boasting that there was no communal disturbance in their régimé, these reptile Papers were doing their nefarious work. As a result, to-day what do we find? We find that there is a great disturbance to the peace and tranquillity which the people were enjoying, disturbance to the peace enjoyed by the two great communities who had been living together like brothers, not for one month, not for one year, but for centuries together. What has happened to them? They are now at loggerheads; they are now cutting each other's throat, and there is a perversion of the feeling of amity and concord and the two great communities are now engaged in this fatricidal war. Because a Muslim has done a wrong or a Hindu has done a wrong, at once the feeling rises as high as the mind of the two communities has been poisoned and drives them to kill the other innocent Hindus or Muslims. This sort of feeling is, I think, inhuman which has made a man a brute, a merciless and reckless brute. This feeling should not be allowed to exist in a man, in a human being for a day. All on a sudden the poison which was spreading for days together, months together, has done this work and it is the supreme duty of any Government at this critical moment to restore the peace of the land and if the Government fails in that duty that Government should resign without delay. So, realising it as their supreme duty our Government have issued a circular which is the subject of this adjournment motion and what is that order, Sir? The circular says that the news sent by the Associated Press, the United Press and other Presses should be subject to a scrutiny and should be passed by the Press Adviser. But news has not been banned altogether. I think Government has got the right to ask that at this critical time all news should be subject to scrutiny by the Press Adviser.

Sir, I read this morning a statement purported to have been made by Mr. J. C. Gupta, the Chief Whip of the Congress Party in the Lower House, in one of the Chittagong dailies, namely, *Panchajanya*. In that he has made a statement that even the number of killed and injured should not have been published, community by community. It should have been published in such a manner as so many Bengalees have been killed; a statement that so many Hindus have been killed or wounded or so many Muslims have been killed or wounded would only poison the mind of the respective communities (Hear! hear!), and that is a statement, Sir, coming from a very responsible member of the Congress Party in Bengal. It should go to show that there is a great necessity for such an order. My learned friend Khan Bahadur Nazíruddin Ahmad said that this order should not continue a moment longer than its necessity demands. With all respect to him I differ from him. I think that for the better understanding between the different communities and for the good of this great province, all news regarding communal matters should be subject to restriction in Bengal

so that communal mindedness and one-sidedness may not find vent in the Papers and poison the mind of the people of Bengal. I think that it should have been done long ago; Government has delayed it by so many years. Sir, I am not oblivious of the fact that liberty of the Press is a thing which a free country should demand; that is true, but that liberty should be exercised in such a manner so that it might not prejudice the cause of the country or disturb the peace of the province. If such liberty is abused or misused, the State has a right to put restrictions on the liberty of the Press for the benefit of the masses as a whole. When such is the case now, it is being complained that Government is misusing or abusing the powers given to it by the Defence of India Act and the Rules made thereunder. It has been said that the Government has miused or abused the powers given by the Defence of India Act and under the Rules made therein. Sir, that power has been given mainly for maintaining Law and Order and peace, and I think this is one of the emergencies on which it should have been properly exercised. I think, Sir, Government has exercised the powers given under the Defence of India Act rightly. With these few words, I strongly oppose the adjournment motion.

Rai Sahib JATINDRA MOHAN SEN: On a point of information, Sir. May not the Press come in now?

Mr. PRESIDENT: The Hon'ble Nawab Bahadur of Dacca is going to reply and it may be necessary for him to refer to that statement. So, the Press representatives will be allowed to come in after that.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Sir, I had no desire to speak on this subject on behalf of Government, but the Minister in charge of the Home Department who would have replied to the debate is unfortunately ill. One of the honourable members of the Opposition has read out a certain statement regarding the Dacca situation and that has compelled me to speak a few words by way of refuting the allegations contained therein. First of all, I am surprised, Sir, that an honourable member of this House should have made a statement which, if I may be allowed to say so, is a deliberate falsehood and an untrue statement. I wonder if any responsible gentleman holding a position in the House and representing the people should ever make a statement of this character. (Mr. LALIT CHANDRA DAS: Sir, we object to the Hon'ble Minister using the words "deliberate falsehood.")

Mr. PRESIDENT: I would request the Hon'ble Nawab Bahadur not to use such words, as it will be difficult to control the other side if they retaliate. It is a game at which both sides can play. The

Hon'ble Minister should not ascribe any motive. You cannot say that it is a "deliberate falsehood," because that amounts to ascribing motive. You may say that the statement is inaccurate, but not a deliberate falsehood, for that is not allowed in any parliamentary institution.

Khan Bahadur ATAUR RAHMAN: On a point of information, Sir. Was it the statement of Mr. Sanyal himself or he had reproduced like a gramophone somebody else's statement? (Interruptions from the Opposition Benches.)

Mr. PRESIDENT: Order, order. There should be no interruptions during the Hon'ble Nawab Bahadur's speech.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Sir, I am prepared to accept any enquiry by a committee consisting of the representatives of any caste or creed for finding out if the statement is true or not.

The next thing that I want to mention is that I went to Dacca with a mission of peace, and I think the honourable gentleman who has made this statement had also the same desire to bring about peace and harmony between the two communities. (Mr. LALIT CHANDRA DAS: Let us know the facts about the riot.) I cannot say that now because it should be left to an enquiry committee or to the proper authorities after peace has been established. It is for that reason that having been at Dacca from the very beginning of the riot, I had practically kept my mouth sealed and even at the request of many Press correspondents I refused to make any Press statement. I said to all of them that when the proper time came, *i.e.*, after peace had been restored and established, then only would the time come for me to make a statement as to what had happened at Dacca and what I saw there. I must also say that the other statement made by my friend is also incorrect, namely, that there was shortage of petrol in his aeroplane—I mean the aeroplane in which Dr. Mookerjee had arrived. That, Sir, is not the fact. It was my earnest wish that as a leading member of the Hindu community had come to Dacca to study the situation, I should help him to see and visit the places lest it should be misconstrued afterwards that we were trying to hide facts from him. That is the reason why I went with him for six long hours to all the different places in which these incidents had happened. Therefore, I regret very much that the mover should have read from the statement without having the facts contained therein verified. I could have understood if the honourable mover himself had been to Dacca personally and had seen with his own eyes so as to be in a proper position to make a statement. I might have agreed with him then,

but to make a statement sponsored by somebody else and to bring it up before this House as one containing the actual truth is, Sir, what has surprised me. I cannot say anything further. To make this type of statement at a time of stress when every one desires that there should be communal amity, communal harmony, and moreover to publish them in the Press—these are things which create communal discord and communal bitterness and bring about a great disaster to the province. That is why I personally feel that all this kind of propaganda which contains rumours, half-truths and sometimes sheer untruths should not be allowed to be published in the Press——

Mr. LALIT CHANDRA DAS: That is the reason why the ban should be removed so that truth might see the light of day.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: These are the reasons why I have taken the liberty, Sir, with your permission, to explain that the story about a dead body being brought to the "Ahsan Manzil" and then being paraded in the streets and taken to a mosque is absolutely false.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, the situation in Dacca is certainly delicate and there are certain other delicate points of which it is necessary that mention should be made. It cannot be denied that our Government is essentially Muslim in character. At the head of this Government, as the Chief Minister of Bengal, there sits the President of the Bengal Provincial Muslim League, whose object is to attain "Pakistan" in Bengal. It is, therefore, just and proper that in order to remove all possible suspicion from the minds of all, all possible information regarding the communal disturbances in Bengal emanating from responsible persons and responsible bodies or associations should be allowed to be published, for, after all, communal disturbances are mainly disturbances between the Hindus and Mussalmans—Hindus on one side and Mussalmans on the other side. Sir, the fiat has gone forth. That fiat is embodied in the order of March 23, 1941, to the effect that no news must be published except through certain sources. The sources are limited in number. The sources are, firstly, the Government sources—Government communiqués. Secondly, such news as is allowed by the Press Officer of the Government, and then news through subsidised or patronised agencies such as the Associated Press of India and the United Press of India. These are all. No other information must be published in any paper even if it comes from responsible persons, bodies or associations! Can such an order be at all supported? Supposing, Sir, there is such an order in England—here are members of the European Group and I say in their presence—supposing disturbance takes place there between the two religious groups, the Catholics and

the Protestants, and the fiat had gone forth that no news of the Catholics and the Protestants must be published in any of the newspapers in England except through certain channels. I ask in all earnestness, would the Britishers stand such nonsense even for five minutes? There they will deliberately spurn such prohibition and try to get at the truth securing news from all possible sources. Sir, I had no intention whatsoever to elaborate or to say *in extenso* what has already been said by Mr. Sanyal. But I would say this, that ostensibly this order or ban has for its objective the avoidance of communal bitterness—bitterness between the Hindus and Muslims there is no doubt about it. But is this ostensible object served by this order of ban? I submit it does not. I submit that the source of information has been restricted to such an extent that it will have every possibility of resulting in the suppression of truth and correct news, which can alone put a check on the vagaries and abuse of powers by the executive authorities. This restriction will have the effect of encouraging crimes by the lawless elements and of spreading alarmist rumours which will make confusion worse confounded.

The editors of the newspapers, Sir, are working under heavy disabilities; their responsibilities are high: their risk in disseminating false or even exaggerated news is great. They may be pounced upon at any time. So even the newspaper correspondents have their own responsibilities. Why should their discretion be sought to be supplanted by the discretion of the Press Adviser? In England they would not stand such a thing for a minute.

Then, Sir, this order is one more instance where the ordinary law of the land is being dictatorially suppressed, where the powers conferred by an emergency legislation, I mean, the Defence of India Rules, are being deliberately abused, and where the civil rights of the people are being seriously encroached upon to the detriment of a minority community. Sir, let me say it here and now that full publication of all authentic news from all sources is the best guarantee of the protection of the minority where communalism rules rampant. Sir, I would refer to one of my short-notice questions. In reply to one of them relating to Dacca, the Hon'ble the Chief Minister made certain statements. I enquired about the latest situation in Dacca, and I wanted to know from him the number of the killed and the wounded. Now, Sir, in reply the Hon'ble the Chief Minister made a statement on Monday last. In that statement he divided the number of killed and the wounded as between the two communities. It was the Chief Minister, Sir, who apportioned the number of the killed and the wounded and pointed out as so many Hindus killed and wounded and so many Muslims killed and wounded, though I did not want a division like that. What I wanted to know was simply the

total number of those killed and the wounded. There was no indication in my question to make any such division and therefore, Sir, the reply that was given was certainly not happy, to say the least. Then again, Sir, there was a certain statement made in that reply. This referred to stabbing, and referring to stabbing the Hon'ble the Chief Minister said that it would take some time for stabbing to stop. That was indeed an alarming statement, namely, the statement that it would take some time for stabbing to stop. I followed it up by a second short-notice question regarding the same point, namely, stabbing, on Friday last, and was informed by the Hon'ble the Chief Minister that stabbing had ceased since the 25th instant. Imagine, therefore, my surprise, Sir, when I was informed yesterday that on Saturday last, *i.e.*, on the 26th March, two persons, of whom one fatally, were stabbed in broad daylight in Sadar Ghat and Badamtali, the two most frequented spots in Dacca. Sir, all that we came to know about Dacca news was from the Government source and nothing new was added to by the United Press or the Associated Press. There remains enough room for independent persons to supplement such news. It is the minority community which is affected most by the absence of such news from all directions. It is, therefore, in the interests especially of the minority community affected in this communal riot such as at Dacca that all the facts should be made known to the public, so that the local authorities might not abuse their power or might not suspend the use of such powers where the use of such powers is necessary for suppressing all lawlessness.

Sir, under these facts and circumstances, I think, the ban that has been imposed regarding the publication of news prohibiting the printers and editors from publishing any news other than those received from the sources indicated in the Government order is all wrong and should be withdrawn.

Khan Bahadur ATAUR RAHMAN: Sir, I did not like to take part in the debate on this adjournment motion of Mr. Sachindra Narayan Sanyal. In the first place, Sir, I was rather surprised that the mover was fortunate enough to be permitted to reproduce an unpublished statement of a leader of his great community. That statement was indeed very objectionable, but when he had the privilege of permission from the Chair, we cannot but submit ourselves to the ruling. The main contention is that Government has taken a high-handed action in prohibiting the publication of some news unless it is passed through some news-agency or the Press. I should think that not only this action but stricter action should have been taken by Government some years ago. If that were done, possibly we would not have seen this communal fight in Dacca or elsewhere. If such action as has been taken by Government had not been taken by them,

then possibly the incidents reported from Dacca would have been repeated by now in Calcutta. Every morning whenever we open some daily paper we find some news of communal bitterness or other connected therewith; possibly most of them are untruths or half-truths. The many troubles by way of communal riots and communal bitterness would have been nowhere and the two major communities of Bengal would have lived in peace if we were not exploited by some interested persons in spreading news which tend to excite one community against the other. Even in independent countries like Persia and Turkey the people cannot publish any criticism of decisions taken by Government or Court; but here we have got every privilege of criticising even the Hon'ble the Chief Justice of the High Court personally. (Mr. LALIT CHANDRA DAS: Are you going to repeat what is done in the Turkish Courts?) I am not repeating what Mr. Lalit Chandra Das says. Unfortunately, here we are supposed to have much more liberty and licence in publishing news which have no authentication. It would have been better, Sir, if we could do without these newspapers. I would ask my friends to read the pages of the *Prabashi* published by a very eminent person, and they will find every month there is some sting against the Mussalmans and, Sir, still we are called communal. I fully support the action taken by Government, and if Government wants to stop these communal fights Government should see to it that such false or untrue or unauthenticated news are not published and the minds of the innocent masses are not poisoned nor excited. With these few words, Sir, I oppose the motion.

Rai Sahib JATINDRA MOHAN SEN: Sir, as one belonging to a party which is not actually committed either against the Government or for the Government, I beg to make a few observations on this motion. Now, the party to which I have the honour to belong supported the motion whether this House would have leave for discussing the adjournment motion, and we stood up to support it in order to hear what the sponsor of this motion and the members of his party wanted to say, and we also wanted to hear the Government on this important issue. We stood up in order to give this House an opportunity of listening to both sides of the question. To a certain extent we have had the advantage of hearing both sides. Now, the question that agitates my mind is this: whether this ban which has been placed upon the newspapers is the right thing or not. Now, if it is right, of course every one ought to support Government; if it is wrong, then every one ought to support this motion. In order to form a correct idea of the attitude of the Government with regard to this matter, there should be fuller information before this House and as a matter of fact also outside this House. If the ban is put for all time, or for a considerably longer time, the people would be in a state of suspense, in a state of misconception, all sorts of unfounded rumours would go

about in the country not only to the detriment of any particular community but to the detriment of the province as a whole. My considered view is that the longer this ban is continued the greater is the chance of deterioration of feeling between the two communities. It is desirable, Sir, that there should be more exchange of views between both the communities so far as the news are concerned. Suppression of news will tend to accentuate, to my mind, the communal feeling which is running very high in the country; and I think, Sir, that if this is wrong, then this wrong will recoil on the heads of those who are supporting this wrong to-day. Sir, the honourable mover of the motion placed before the House a certain statement which Dr. Shyama Prasad Mookerjee intended to publish in the papers but which he could not do. We are not in a position to say whether the facts contained therein are true or false, but considering the position of the gentleman who had prepared the statement, the great honour with which he is held not only in this province but throughout India, the statement is entitled to great weight and *primâ facie* every one in Bengal will be disposed to accept that statement to be true. The Honourable Nawab Bahadur of Dacca has characterised that statement as a piece of unmitigated falsehood. Of course, that statement must be treated as a counter-statement made by another party, and we are not in a position to say, in view of the distinguished position of the two eminent persons concerned, as to which statement we are to accept and which not to accept. We are really in a fix when such eminent and illustrious persons make divergent statements. Therefore, if the Press were free and if people had an opportunity of discussing this matter, the public might consider the matter so that the facts could have been made more clear and easier for every one concerned to understand. In view of all these, my submission to the House and to the Government is that they will not allow the ban to continue a day longer than is absolutely necessary, because my view is that the longer the ban continues the greater would be the mischief done not only to one community but to both the communities. With these few words, I beg to submit that the Government should withdraw this ban as early as possible.

Rai Sahib JOGENDRA CHANDRA ROY: Mr. President, Sir, I am to-day reminded of an incident. A band of dacoits has attacked a house. The leader of the dacoits holds a pistol over the heads of the members of the house threatening them on pain of death neither to cry aloud nor to raise any alarm, while his followers go on carrying their ravages in the house. Quite the same thing is being repeated in Bengal. Her houses are being burnt down, valuables looted and plundered; lives massacred, but she has been robbed of her most elementary right—the only right of the helpless and the destitute—of crying aloud, of acquainting her sympathetic brothers all around the country with their

most pitiable condition; for her voice has been gagged and she is being throttled to death! What a fine picture it is! When such is the expression of a democratic and popular Government, how precious then must be the democracy for which we are being asked day in and day out to sacrifice our lives and property! The picture easily gives the impression that sanity has perhaps left the heated brains of those fortunate men who are running the Government of this unfortunate country. The first thing that strikes even a layman is whether such application of the Defence of India Rules is indeed consistent with the basic principle for which they have been promulgated. We have all heard and seen how callously and irregularly these Rules are being from time to time applied by the authorities here wth complete disregard for the normal exercise of the elementary civil rights of the people. Instances have been exhaustively cited both in the Press and the platform as well as on the floors of the Legislature, both here and in the Centre, showing how these Rules have been grossly abused. Even the court of justice has found how these Rules have been misapplied. In the case of Mr. Ruikar, a Sessions Judge of Nagpur has remarked—"There is hardly a word in the speech about war and it is in respect of the war that the Defence of India Rules has been brought into existence." This remark brings out the principle which should govern all applications of the Rules under the Defence of India Act. If that be so, how does the publication of the news of the communal riots at Dacca and other places affect in any way the war purposes of the Government of India. In this view of the matter, is it not a misuse of the Rules? Among the various misapplication of these Rules here, I may mention also one that occurred a few months ago when the present Government prohibited the publication of any news regarding the Satyagraha movement started in connection with the Holwell Monument. The liberty of the Press is a great asset to a democratic country. Any undue curtailment of this liberty is really a negation of democracy. Even in these critical times for Britain, all attempts of the Government to suppress the war news in England on the plea that they would help the Nazi propaganda has been completely turned down by Parliament. This is indeed what we can naturally expect—the brightest fruit of democracy. Leaving aside such great and glorious instances, even if we look at the Punjab Government, what do we see? There was the great Khaksar Movement which resulted in serious clashes between the police and Khaksars. Well, the Punjab Government have never taken recourse to these Defence of India Rules in order to ban the publication of all news in connection thereof. Is the Government of Sir Sikandar stronger and saner than that of our present Government? Sir Sikandar has abundantly that strength which enables him to rule the province according to the normal law of the land even in most abnormal times. May we ask if it is sheer weakness on the part of our ministry that has compelled them to take recourse

to emergency legislation even when the normal law of the land is sufficient to meet the situation? Does not the flagrant and gross abuses in the application of the Defence of India Rules that the present Government is frequently making only announce to the world outside utter bankruptcy of statemanship and inherent weakness on the part of this Government?

Then again, Sir, the communiqués that are generally published in the newspapers—specially the newspapers of the first rank—are either sent by their local correspondents or by some influential men of the locality? Even the accuracy of the messages by private persons are first examined by the editor, so far as it lies in their power, and the correspondent of the papers like the *Amrita Bazar Patrika* and *Hindusthan Standard* and the *Statesman* may be supposed to be fully aware of their responsibility for the news they are despatching to their respective Presses for their publication. Even assuming that there may come out some inaccurate descriptions of an incident in the Press, the Government can certainly contradict it the next moment. The Information Bureau of the Government is being paid for it. In case some injudicious comments are made by the Press, the Government in that case may well request the Press Committee to rectify the injudiciousness. When therefore there are so many ways and means to rectify the wrong, the Government, it seems to me, have committed a blunder in issuing this order under the Emergency Act. It seems that the Government of the Hon'ble Mr. Fazlul Huq is very much afraid of the Press, and it loses not a single minute to stifle it whenever there arises any abnormality, however insignificant it may be or however easy it may be to cope with it according to normal procedure.

I regret myself that I have been forced to repeat these sad passages on the floor of the House. To read as well as to hear them is both distasteful and highly painful and the sooner they are closed the better. But the wounds that have touched almost the inmost recesses of our hearts always pinch us to find its relief by external manifestation. They are too deep and painful to be choked or gagged. This is why I have taken such time to express them. I do not like to intrude upon the patience of the honourable members any more. The ball has been set rolling. God alone knows where it will stop and with what greater misfortune to our unhappy land.

Before I resume my seat, Sir, I cannot but say a few words on another aspect of the Government order. The order has been issued under the name of the Governor. It will, of course, be so under the present constitution as the province is governed in the name of the Governor. The Ministers are merely his advisers. But true to the conventional etiquette and also to the assurances given by the Viceroy and the Secretary of State for India at the inception of the Reforms in meeting the demand made by the Congress, the

Governors are not to interfere with the day-to-day administration of the province by the Ministers, but they must abide by their decision and advice. The present order being really in connection with the day-to-day administration of the province, His Excellency the Governor must surely act according to the advice of his Ministry. Therefore, I have nothing here to say against His Excellency but only to pay my respectful homage to him. But at the same time, I cannot help making my humble suggestion that it may not be kept in force longer than is required under the circumstances of the case. With these few words, I resume my seat.

Mr. BANKIM CHANDRA DATTA: I had really no mind to take part in this debate as the matter had already been fully debated. I do not quite appreciate the interruption from my honourable friend Mr. Ross, as I thought he would be with me if I said that Britain would never tolerate such an order as this even for half a second. I happened to be in England during the last war, and I can tell my honourable friend for the purpose of his elucidation that at that time two meetings, one in favour of recruitment and the other against it, were permitted to be held side by side and there were no arrests nor was there any ban on such meetings or on the publication of the speeches in those meetings. (Khan Bahadur NAZIRUDDIN AHMAD: There are no communal disturbances there.) There were any number of disturbances, but all based on economic grounds.

Mr. LALIT CHANDRA DAS: The trouble between the Catholics and the Protestants is always there.

Mr. BANKIM CHANDRA DATTA: To my mind the basis of every popular Government is public opinion as ventilated through the Press, and the Press can function effectively only by giving a steady and continuous supply of news to the public. There should, therefore, in my opinion be no restraint whatsoever on the publication of news. And what is more is that the Press should enjoy the liberty to express its opinion on all public affairs as much as an individual subject of the State. In fact, one of the functions of the Press should be to criticise the affairs and the administration of the Government, with a view to correct its errors and to reform its views. Sir, I know that the Press has its own limitations in the same way as an ordinary subject has and there is the law of the land to define the limit. But apart from the ordinary law of the land affecting the liberty of speech of citizens of the country, there is a special law relating to the publication of news. I mean the Press Act of 1931. Sir, may I just incidentally draw a distinction between the liberty of the Press in England

and in India? So far as I understand the law in England to be, the Press there can go on publishing news unless there is an actual breach of the law, that is to say, unless it has actually offended against the law; but so far as the law here is concerned, it can prevent the publication of certain matters, call for deposits to be made in advance by way of security. But, be that as it may, I do not want to quarrel with that law. What I do feel is, that the promulgation of this order, of this ban, was wholly unnecessary and there was no justification for it. The arms of the ordinary law are long enough to reach everybody, namely, the editors, the printers, the proprietors as also the correspondents, and every one of them is responsible for publication and dissemination of false news, and as such there was no occasion whatsoever for this ban.

Sir, the question is—whether the publication of these happenings would be tantamount to creating an atmosphere which would be prejudicial to war efforts. That really would be the test. Do the Government feel that the publication of these happenings in the villages would create such an atmosphere which would be prejudicial to war efforts? Do they feel seriously that anything like that has happened or can happen? To my mind there was no ground whatsoever for thinking like that. On the other hand, I think that it is this ban on publication, this forced stoppage of free news, which would certainly raise serious misgivings and misapprehension in the minds of the people, and it might create a state of increasing anxiety and suspense which certainly is very undesirable and must be avoided. In other words, I may say that the very object for which the ban is proposed to be imposed on the publication of news has been thus totally defeated. Sir, I do not want to detain my friends, but I may just draw one analogy from the policy which is now being followed by Mr. Churchill, namely, that nothing should be kept away from the people, however alarming and disquieting the news may be. As a great statesman (bankrupt here) he feels that he has got to take the people into his confidence. He knows that this policy of trust must beget trust and his policy has succeeded. Suspicion, Sir, can only beget suspicion in return. Trust the people and the people in return will trust the Government, but not otherwise. As a result of this policy of trust the British have been able to check the onslaughts of the enemy, and all the losses so far have only steeled the hearts of the people and have made them invincible. Let the Government over here follow this policy, and they will achieve the same result as in England. Sir, a policy of distrust or a policy of suspicion, can never win the hearts of the people, however well-intentioned the measures may be. The ban on this publication will never achieve the purpose which the Ministry have in view. The editors are all responsible and respectable men, men of intelligence, men of culture, men of position in this country and certainly the Government

should trust them and then they themselves will act as censors, and examine the news critically before publishing them. In that way the Government can very easily achieve the object they may have in view and at the same time people will get full news. With these words, I beg to support the motion for adjournment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, at the outset I would like to state that Government welcome this opportunity of explaining their policy in promulgating the orders prohibiting the publication of all news—all uncensored news—in the Press regarding the communal situation. Sir, need I remind the honourable members of this House that we are passing through a very abnormal situation due to the European war? Some of my friends opposite have urged that Government should have relied upon the ordinary law of the land and should not have taken action under the Defence of India Rules. Sir, action under the Defence of India Rules has become particularly necessary because of this abnormal situation. Sir, the communal situation by itself is bad enough, and I presume that my honourable friends will agree that peace and tranquillity of the country is not merely the concern of those who are in charge of the administration of the province, but it is the concern also of all good and responsible citizens. Now, the situation as I have just stated has been rendered serious and difficult because of the war. We do not want the Hindus and the Muslims in this province to fight among themselves. We do not want any communal feeling and any communal bitterness to spread from Dacca to the interior of the villages, while Government themselves are now engaged in a very serious struggle with a very determinded enemy. That, Sir, is the justification for our taking recourse to the Defence of India Rules.

Sir, I will now turn to the order as promulgated by Government. The order runs as follows: "In exercise of the power conferred by clause (*a*) of sub-rule I of Rule 41 of the Defence of India Rules, the Governor is pleased to order that all matters relating to any communal disturbances in the province whether by way of news, comment, or correspondence, notice, statements, advertisement, illustration, or otherwise, shall, before being published in any document be submitted for scrutiny in Calcutta to the Special Press Adviser, and elsewhere to the District Press Adviser, and to exempt from the above order—mark these words—

"(*a*) any matter issued by or under the authority of Government;

(*b*) any news circulated by the Associated Press of India or the United Press of India;

(*c*) any matter otherwise exempted by general or special order of Government in this behalf."

So it is not a fact that Government have suppressed the publication of all news. The object of Government is promulgating this order is to prevent the circulation of wild rumours and publicity to facts which are far from truth.

Sir, to-day in moving this motion Mr. Sanyal read out the statement of a very prominent leader. Many facts in that statement were challenged by my colleague, the Hon'ble Nawab Bahadur of Dacca. It is not for me at this stage to go into the fact; it is not for me to suggest that those facts mentioned in the statement are correct or incorrect. But I put it to my honourable friend Mr. Sanyal whether it is not possible to misunderstand, to misinterpret and to misconstrue the statement made by a person however high his position might be. Now, Sir, this risk of misinterpretation of statements should be borne in mind by every lover of peace, by every lover of order and tranquillity in this province. Government have exempted from this order any news circulated by the United Press of India and by the Associated Press of India. These are the two recognised news-agencies——

Mr. LALIT CHANDRA DAS: These are subsidised news-agencies.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not think that is a very complimentary remark against these two great news agencies.

Mr. LALIT CHANDRA DAS: They are patronised agencies.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: They are neither patronised nor subsidised agencies. They are independent news-agencies and they render very useful and valuable service to the newspapers and to the country at large. So, Government have given them free play for the dissemination of news—truthful news—and there is no ban or prohibition on the publication of news which are correct. All that the Government want is to guard against giving currency to news of doubtful origin. I will put it to my friends opposite whether they want the circulation of wild rumours, unauthenticated rumours, which might lead to the speading of communal conflagration in the villages? Who is going to control if once the fire spreads? In the statement that was made by Dr. Mookerjee there were certain allegations to which I would draw the attention of the House. There, it was stated that in the very presence of the police in the heart of the town of Dacca houses were set on fire, markets were looted, bazars were looted, arsons went on. I am not in a position either to support or to contradict these allegations at the present moment. If such things once start in the unprotected villages, it will be impossible for the Government or the police to give protection to the 56 millions of

Bengal's population far away from the town. (Mr. LALIT CHANDRA DAS: Is ban then the only remedy?) I certainly do not think that the ban is the only remedy, but I would draw the attention of my honourable friends to the fact that Government have no desire to ban the dissemination of truth: all that they desire is to put a stop to circulation of wild rumours. There are two news-agencies. (Mr. LALIT CHANDRA DAS: Is that enough for the whole country with a population of 50 millions?) Government have given the news-agencies free play. It has been said that if it were Great Britain then such an order would not have been tolerated even for a moment. Sir, I think th. information, the knowledge on this subject of my friends opposite are very out of date. Extraordinary situations require extraordinary measures and extraordinary remedies. While the enemies are knocking at our door, we cannot allow the Hindus and Mussalmans to fight amongst themselves to convert our peaceful and prosperous Bengal into another battle-field! We have got very dangerous enemies to fight. So, let us pool all our resources together and defeat the enemies. Therefore, the sole object of Government is to bring about communal harmony, to maintain peace in the greater interest of the country. If the Mussalmans of the Chittagong Division, who form the majority there, get inflamed by the news of the desecretion of mosques, what will be the fate of the co-religionists of my friends opposite in the interior of the villages? We certainly require news, but we do not want circulation of wild rumours about desecretion of mosques or demolition of temples. They should be prevented. We know how quickly the masses react to such rumours. Anybody who has got the interest of the country at heart, anybody who lays claim to patriotism, ought to remember that here the Government stands not for a particular community but for the province as a whole, for the Hindus, for the Mussalmans, for the Christians, for every community. (Mr. BANKIM CHANDRA DATTA: I wish it were so.) It is so, otherwise I would not have remained here even for a single day. I would have chucked it off and cleared out. I thought that instead of criticising the Government they would come forward with the hand of co-operation and help Government in solving this difficult problem with which they are confronted. Sir, we ought to be grateful that the Dacca riot has been brought under control. I would remind you, Sir, what happened in Calcutta in the year 1926. For nearly two months the riots continued. (Mr. LALIT CHANDRA DAS: Disgraceful!) You cannot, by any stretch of imagination, argue that it was a communal Government which ruled Bengal in 1926. That was the Government of Lord Lytton and a Member of the Executive Council was in charge of the Department of Law and Order. I have very bitter experience of that period as the Secretary of the Peace Committee of Calcutta. I remember with what difficulty we could stop stray stabbings. Mr. Lalit Chandra Das to-day says that it is a matter of great shame that stray stabbings could not yet be stopped in Dacca,

though the Hon'ble Chief Minister made a statement regarding it the other day in this House that it had stopped. I can assure him that every attempt is being made by the police, the Commissioner of the Division, the District Magistrate and by other local officers to give protection to the unfortunate people of both communities. But, Sir, there are certain sections of the people, I mean the Goondas, who belong neither to the Hindu community nor to the Muslim community—they are a class by themselves, and I hope neither the Hindus nor the Muslims sympathise with them or will care to recognise them as members of their community—it is this section of the people, these miscreants that have been carrying on these stray assaults. I am, however, glad to say that the situation has since been brought under control and in the interest of tranquillity it is necessary that this order should remain in force for some time more.

Mr. LALIT CHANDRA DAS: How long?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: As long as the situation does not come back to the normal.

Mr. LALIT CHANDRA DAS: Can't you give an approximate time?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Well, Sir, I wish I could.

Mr. LALIT CHANDRA DAS: Then you are not quite sure so far as the communal situation is concerned?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: In view of all the facts and circumstances I have submitted, it is in the interest of the province itself that Government should not be criticised for taking steps in maintaining Law and Order, a matter in which both the Hindus and the Muslims are mutually interested.

With these words, Sir, I oppose the adjournment motion and would request my honourable friend, the mover, who is a responsible citizen having a large stake in the country, to withdraw his motion.

Mr. HUMAYUN KABIR: Mr. President, Sir, it is with a sense of sadness and humiliation that I rise to speak whenever a communal question is discussed in the House. I think that I shall be voicing the opinion of all sections of the House when I say that communal trouble or communal conflict or communal difference between the different groups of Indian people is not a matter in which any individual or any community may take any pride. By such squabbles and conflicts which sometimes arise amongst us, we only

make ourselves a laughing stock to the rest of the world. Very often these squabbles are utilised by persons who are interested to see that the conditions of our existence shall not change to maintain the conditions under which we suffer to-day. Therefore, Sir, it is always with a sense of personal humiliation that I rise whenever a question of this type is discussed in our House. I think, Sir, that every one of us should regard it as a matter in which he is personally affected. If such things happen and if incidents occur of which we are ashamed, if these incidents are caused by individuals of this community or that, then that also to a certain extent reflects on us and proves that we have failed in our duty, that we have failed in our public life in creating better understanding amongst the different communities. I feel that every person in this province to whichever community he might belong, whatever be the advantage of his social position, whatever be his education and whatever be his political power—every person stands condemned because of such incidents occurring from time to time. Sir, I have often said and I repeat again that in many cases these riots which we take to be communal riots are not really communal riots in the proper sense of the term. They occur out of trivial incidents—out of economic differences, political differences and sometimes even from personal jealousies. These incidents arising out of purely trivial matters in the first instance are allowed to develop into a conflagration and also to affect the lives of many persons who are quite innocent of the origin and cause of such conflicts. Mr. Lalit Chandra Das in his speech to-day made one remark which I think honourable members should particularly bear in mind. He said that he wanted to know the number of casualties that had occurred in the Dacca riots. There was no suggestion in his question that the number should be given in terms of the communal ratio, but the Hon'ble the Chief Minister replying on behalf of Government, nevertheless, gave the figures of the casualties in terms of communal ratio and proportion. This encourages fissiparous tendencies and communal jealousies and enhances bitterness, which the Hon'ble Minister who has just now spoken wants to avoid. Therefore, Sir, Government should be more careful in its answers and see that this sort of thing is avoided.

Before I come to discuss some of the causes which are responsible for the situation in Dacca, I should like to place before the House the reasons for which it was desirable that this adjournment motion should be discussed in the House. I am glad, Sir, that Government also have welcomed this motion. It was necessary that steps should be taken up so that Government would get an opportunity of stating their own point of view. I would assert that the opinion of the major section of the House is in agreement with that of Rai Sahib Jatindra Mohan Sen. He has said that everyone wants that these communal riots should cease and that the situation should be brought under control and that

the communal position should be thoroughly examined. But, Sir, the question is: whether the particular steps taken by Government are likely to achieve that purpose and are conducive to such results as is desired by all or will it bring about a contrary result? Most of the speeches delivered from this side of the House are directed to question the wisdom of the Government with regard to this matter. We must ask whether suppression of such news will not lead to wild rumours—whether it will not cause suspicion in the minds of the different communities as to the actual situation—more than the publication of full news, however bad that might be.

Sir, the Hon'ble Minister has also said that the dissemination of rumours must be stopped. The story of the desecration of mosques and the destruction of temples—if it goes to the countryside—will excite the passions of the people, and if the passions are excited, it would be fatal to the peace and prosperity of the province as a whole. He also said that by issuing the special circular, Government was not stopping the publication of all news. They are allowing such news as are circulated by the Associated Press of India and the United Press of India. These may be published without being subjected to censorship. That is a step, Sir, in the right direction. I am glad that Government paid a tribute to these two news-agencies for the services which they are rendering and the help which they are giving. But here also there is a lacuna in the Government decision. There is another Press, organised in recent times, a Press which goes by the name of "Orient." Its news have not been exempted from censorship. I think, Sir, if Government had extended their exemption policy to the Orient Press as well, this would have gone a long way towards avoiding this adjournment motion.

Then again, there is the point raised by speakers on the floor of this House that these Presses are not always able to get exact news in regard to a particular matter. That is why newspaper authorities have to maintain their own correspondents for the supply of news through their own agencies. If full news could be available through these two Presses alone, then there would have been no necessity for special correspondents. Government have argued what control have we over such private or special correspondents of the newspapers? I would point out to the House that large powers are exercised over these newspaper correspondents—over the newspapers themselves—over the publishers, over the printers; and if undesirable news is published, they are in some cases liable to confiscation, in others to a heavy fine; in others still, they are liable to produce a special security. Sir, the fact remains and it cannot be gainsaid that the Government have very large powers. If we have any criticism it is the criticism which was voiced by my honourable friend Khan Bahadur Nasiruddin Ahmad that in very many cases the Government

have not exercised those powers in the past. To-day they want to stop the dissemination of any news which has a tendency to incite to communal disturbances; but, Sir, can it be denied that for the last four years, this Government has been guilty of encouraging the dissemination of such news? Newspapers have been subsidised by Government in order to disseminate news which was of a nature likely to excite the passions of the people and lead to the type of unfortunate circumstances which have come into existence in Dacca to-day. Sir, if the Government is guilty in this matter, it is guilty in not taking proper action at the proper time; and it does not behove them now to come down upon the Press with orders which are extreme. To put it very mildly, if proper steps had been taken at the outset and if whenever there was a case of provocation, be it by the Hindus or the Muslims or by a limited company, whether it be a newspaper supporting the point of view of the Muslim League or a paper supporting the point of view of the Hindu Mahasabha or any of the other organizations which try to divide the country on communal lines, if the Government had come forward and said that they would stop the dissemination of news which is likely to provoke communal passions and communal bitterness, if the Government had in the past taken action against those newspapers which were indulging in the dissemination of such news, I think, Sir, the unfortunate situation in which we find ourselves to-day would not have occurred. Therefore, Sir, the Government's mistake, if I may put it that way, lies in not taking action at the proper time and the famous Bengalee saying—to lock the stable doors after the horse has fled—applies to this Government. The Government have not in the past tried to stop the dissemination of news which is calculated to rouse passions and bitterness between the different communities. Now suddenly they come forward with an order which goes to the exterme length and wants to stop the dissemination of all news of this type. So far as the intention of the Government is to stop communal discord, they have our support. We also admit that in extraordinary times it may be necessary in spite

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(Here the member reached the time-limit, but was allowed a minute more to finish his speech.)

Sir, it is true that we want the liberty of the Press and even in the extraordinarily difficult conditions in which England is fighting against Germany to-day, the liberty of the Press is being maintained. Many of the honourable members will probably remember that only a few days ago, Mr. Churchill in a statement in the House of Commons said that even though the Peoples' Convention had been called by people who wanted to oust the present Government and replace it by a Peoples' Government, he was not willing or prepared to stop the propaganda of the people who had taken part in this Peoples' Convention.

On the other hand, he would ask them to come and broadcast against the present Government, if they so liked, and in this way he countermanded the order which was passed by some of the lower authorities prohibiting these people from broadcasting to the Nation. Therefore, Sir, England, even in war conditions, realises that the right of the Press, the liberty of the Press, is a very valuable safeguard against tyranny and injustice, and that safeguard we do not want to lose unless it is absolutely indispensable to forego it. As I was saying a moment ago——

Mr. PRESIDENT: Order, order. The time-limit is over.

(At this stage the member, having reached the extended time-limit, resumed his seat.)

Mr. KANAI LAL GOSWAMI: May I ask the Government, Sir, if the two news-agencies which have been exempted from this ban, namely, the United Press and the Associated Press, have got a sufficient network of organizations throughout the length and breadth of the province so as to collect all the news that are happening in India?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I thought my honourable friend was sufficiently acquainted with the organisation of these two news-agencies in this country. Having long been in public life, he ought to have known that the Associated Press and the United Press are represented practically in every important centre.

Mr. LALIT CHANDRA DAS: In the divisions, or the towns, or in the interior?

Mr. PRESIDENT: Order, order. The honourable the Deputy Leader of the Coalition Party in the opening sentence of his speech on this adjournment motion said "that he had to submit to the ruling of the Chair". It seemed that he had some reservation in his mind because he said, "The statement of a leader of his great community was indeed very objectionable but when he had the privilege of permission from the Chair, we cannot but submit to the ruling". I have gone through relevant authorities on the point implicit in the Khan Bahadur's observation. It is really a difficult point. A similar question was raised in the Central Legislature by Sir R. S. Sarma (then Mr.). I will quote here the relevant extract from the Proceedings of the Central Legislative Assembly. He said, "On a point of order, Sir. Although speeches here are privileged, can an honourable member make use of a proscribed book?"

Now, the occasion for that point of order was furnished by the fact that an honourable member was quoting from a book which had been

proscribed by the Government of India. The reading from a statement banned by the Local Government, as was done on the present occasion, would also appear to stand on the same footing.

The President there felt the difficulty, and he then appealed to the members who were learned in law to give their views on the matter. The then Law Member of the Government of India, Sir Brojendra Lal Mitter, in the course of his argument said, "I think reference can be made to literature which is proscribed. Supposing an article is seditious and a man is being prosecuted for sedition in a court of law, you can quote that article for the purpose of showing that it is not seditious. Therefore, in the court proceedings the whole of the article may go in, although it may be eventually held to be seditious. You cannot prevent the publication of it in the court proceedings. Similarly, if in laying a charge against, say, the Home Department, an honourable member contends that the Home Department was not justified in proscribing a particular piece of literature, then he could quote that literature in the House for the purpose of indicting that department. He may be right, he may be wrong; but you cannot prevent a member from referring to it in support of his contention." The President held that, "I think it is clear now what the ruling should be. The Hon'ble the Law Member has clearly explained that it is open to honourable members, in support of any argument which they may wish to advance, to quote from proscribed literature."

But the other aspect of this question is that no one should be allowed to do anything indirectly which he is debarred from doing directly. If it was clear that the statement was being read out in the House merely with the object of getting the same published in the Press, then certainly the Chair would not have allowed it. But as I find on the analogy of the precedent I have just now quoted, that he was supporting his argument about the inadvisability of banning all relevant information about the riot situation by quoting specific portions from a statement which was banned by the Government, he could not be prevented from referring to the statement. The Chair hopes that any misgiving on this point that was in the mind of the honourable member is now removed. (The Hon'ble Mr. H. S. SUHRAWARDY: Does the Chair make any distinction between quoting from proscribed literature and quoting from a proscribed statement?) The position is the same. I made it clear that no member will be allowed to do anything indirectly which he is precluded from doing under our Rules. If the only purpose of reading out from that statement was to secure its publication in the Press, then it will be frustrated by reason of the clearing out of the Press and public galleries. (Mr. LALIT CHANDRA DAS: I think, Sir, this speech will be published in our proceedings.)

Order, order. Mr. Sachindra Narayan Sanyal, you have a right of reply. Do you like to speak?

Mr. SACHINDRA NARAYAN SANYAL: Sir, I do not think the Hon'ble Minister has been able to meet my speech point by point. I do not wish to repeat my arguments over again, but I simply say that this order, this ban, should be removed immediately.

Sir, I am sorry that the Nawab Bahadur of Dacca was not present when I spoke on the adjournment motion. He came after I finished my speech and commented on it. In reading out extracts from the statement of Dr. Shyama Prasad Mookerjee I simply wanted to bring to the notice of the House as to why such a statement should not have been banned. If the Government had found the statement to be wrong or incorrect, they could have taken proper steps for contradicting those facts. But, Sir, why did not they do so? And why did they put a ban on that statement? So, so long as the allegations made in that statement of Dr. Mookerjee are not sought by Government to be disproved or shown as inaccurate, we cannot but believe in it. Unless Government prove by facts and figures that the statement is inaccurate, unless and until we know that, we are going to believe that statement, as I have already said. With these few words, Sir, I express by unwillingness to withdraw my motion, as requested by the Hon'ble Sir Bijoy Prasad Singh Roy.

Mr. PRESIDENT: Does Sir Bijoy Prasad Singh Roy propose to reply to this speech of the mover?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir, I do not wish to make a further speech.

Mr. PRESIDENT: The question before the House is: that the House do now adjourn.

(The motion was negatived.)

Presentation of the Eighth Report of the Committee of Privileges.

Khan Sahib ABDUL HAMID CHOWDHURY (Deputy President): With your kind permission, Sir, I beg to present herewith the Eighth Report of the Committee of Privileges, which runs as follows:—

"We, the members of the Committee of Privileges appointed by the Bengal Legislative Council, have the honour to present this our Report on the matter referred to us by the Council at its meeting held on the 11th February, 1941, in connection with the question of the constitution of a Public Accounts Committee for the Bengal Legislative Council.

The Committee sat on the 26th February, 21st March, and 28th March, 1941, to consider all aspects of the question.

The Committee are of opinion and recommend that a Public Accounts Committee should be formed for the Bengal Legislative Council consisting of eight elected members of the House and the Hon'ble Finance Minister as its *ex-officio* Chairman and that pending the framing of rules governing the constitution of such a Committee, the Hon'ble the President of the Bengal Legislative Council be requested, in exercise of the powers vested in him under Rule 111 of the Bengal Legislative Council Procedure Rules, to form a Public Accounts Committee for the Council, till rules are framed for the constitution of the Committee by the Council."

It may be noted, Sir, that when the Report had been sent to the press, the signature of Mr. Amulya Dhone Roy could not be secured, but it has since been obtained.

On a careful perusal of section 169 of the Government of India Act and Rules 108 and 109 of the Bengal Legislative Council Procedure Rules framed under section 84(*1*) of the Government of India Act, the Committee were unanimous in its finding that this House is entitled to have a Public Accounts Committee of its own.

With these few words, Sir, I beg to move that the Report of the Privilege Committee, as well as its recommendation, be accepted by the House.

Mr. PRESIDENT: Motion moved: that the Report of the Privilege Committee be accepted by the House.

Khan Bahadur ATAUR RAHMAN: I support the motion moved by the Hon'ble Deputy President.

Mr. PRESIDENT: The question before the House is: that the Committee of Privileges are of opinion and recommend that a Public Accounts Committee should be formed for the Bengal Legislative Council consisting of eight elected members of the House and the Hon'ble Finance Minister as its *ex-officio* Chairman and that pending the framing of the rules governing the constitution of such a Committee the Hon'ble the President of the Bengal Legislative Council be requested, in exercise of the powers vested in him under Rule 111 of the Bengal Legislative Council Procedure Rules, to form a Public Accounts Committee for the Council, till rules are framed for the constitution of the Committee by the Council.

(The motion was agreed to.)

The Bengal Finance (Sales Tax) Bill, 1941.

Mr. PRESIDENT: The House will now resume the further consideration of the Bengal Finance (Sales Tax) Bill, 1941.

Schedule.

Mr. PRESIDENT: The Schedule be added to the Bill.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, with your permission may I move my amendment No. 314 in a little modified form, viz., the word "milk" and the word "posset" (soft cheese) be omitted.

Mr. PRESIDENT: Yes.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I beg to move that in the Schedule attached to the Bill, under column 1, the following items be added, namely:—

"curd milk, fruits, woods (used as fuel), medicines and *biri*."

Sir, the principle underlying the Bill is that the necessities of life which affect the poor people should be excluded from the operation of this Bill. I may say that fruits which come under the column of vegetables (Column 1) should be added under item 6. Under item 11, curd milk, should be added: under item 20, medicines should be added, and under item 24 woods (for fuels) should be added.

Under item 24, you have put coal and coke, and I want to add wood (used as fuel). I want also to add *biri* under item 18, tobacco. I hope, Sir, my amendment will be accepted.

Mr. PRESIDENT: Amendment moved: that in the Schedule attached to the Bill, under column 1, the following items be added, namely:—

"curd milk, fruits, woods (used as fuel), medicines and *biri*."

Mr. HUMAYUN KABIR: Sir, I beg to support this amendment. Government have made certain exemptions. They have exempted milk, they have exempted, as was pointed out by the honourable mover, coke and coal. Therefore wood, used as fuel, ought to be excluded, as also medicines, *biris* and fruits. I think that medicine is a thing which Government will see their way to exempt. As for *biri*, it was, I think, said by the Hon'ble Finance Minister in some other place that *biris* are not merely smoked by the poor but by the rich as well, and on that ground the Hon'ble Finance Minister wanted to put a tax on *biri*. But so long as *biri* is confined to the poor, I think it should be exempted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, may I draw the attention of the House to the fact that as regards *biri*, it is a very small tax of one pice in the rupee and this will, I think, help the *biri* cottage industry and help those small *biri* shops that manufacture and make *biris*. So there is no reason why I should accept this amendment. No sufficient case has been made out for accepting the amendment. Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in the Schedule attached to the Bill, under column 1, the following items be added, namely:—

"milk, curd milk, posset (soft cheese), fruits, woods (used as fuel), medicines and *biri*."

(The amendment was negatived.)

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move: that in the Schedule attached to the Bill, after item No. 1, the following be inserted in column 1, namely:—

"1a. Straw, fodder, bamboos."

Sir, in the mufussil there are dealers in straw and bamboo. These materials, straw and bamboos, are always necessary for thatching the houses of the poor people and, therefore, to my mind these ought to be exempted from taxation. Fodder also should be exempted for the same reason, because it is very necessary for the poor people in the villages. With these words, Sir, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in the Schedule attached to the Bill, after item No. 1, the following be inserted in column 1, namely:—

"1a. Straw, fodder, bamboos."

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, these items, namely, straw, fodder and bamboos, will automatically escape payment of the tax because they are not likely to pass through firms which deal in goods with more than Rs. 50,000 turn-over. So, there need be no fear of any tax on these items. For this reason, Sir, I do not think that this amendment is at all necessary.

Mr. PRESIDENT: The question before the House is: that in the Schedule attached to the Bill, after item No. 1, the following be inserted in column 1, namely—

"1a. Straw, fodder, bamboos."

(The amendment was negatived.)

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move: that in the Schedule attached to the Bill, in column 1 of item No. 6, after the word "vegetables," the words "and fruits" be inserted.

Sir, what I mean to say is this: if vegetables are exempted as they should be, I do not see why fruits should not also be similarly exempted. They are necessary for supplying vitamin to the people who are already weakened by all sorts of diseases. Moreover, Sir, fruits practically form a part and parcel of vegetables. Therefore, Sir, I request that this amendment may be accepted by the House.

Mr. PRESIDENT: Amendment moved: that in the Schedule attached to the Bill, in column 1 of item No. 6, after the word "vegetables" the words "and fruits" be inserted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Not all fruits, Sir, but only fruits which are dealt in by dealers whose turn over in such fruits is more than Rs. 50,000 are subject to the tax. These fruits, Sir, I submit, are usually consumed by the rich people; the poor people generally do not consume much of such fruits. So they need have no fear of this tax in respect of these fruits. For this reason, Sir, I do not think that this amendment is necessary.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I beg to support the amendment of my friend Rai Bahadur Manmatha Nath Bose. I do not understand why the Khan Bahadur says that fruits are used only by the rich people. As a matter of fact, Sir, they are used by the rich and the poor alike. Besides, Sir, certain fruits are used mostly by the poor people and if fruits be not exempt from this tax, then the poor people will be affected. To cite an instance, Sir, in my part of the country, I mean in Murshidabad, I find that mango is practically the food for the poor. For months together the poor people live on mangoes. Mangoes cannot be called vegetables and so would not escape this tax. For this reason, Sir, I think fruits should be exempted.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I will never for a moment contend that mango is vegetable. The honourable member has not appreciated the argument of the Khan Bahadur. It is not that the poor do not eat mangoes or for the matter of that fruits. What he said was that as the mangoes generally used by the poor do not pass through shops with a turn-over of Rs. 50,000 but are sold from hand to hand by the producer to the consumer, they will automatically escape taxation and, therefore, Sir, there is no point in exempting fruits as a class from the Schedule.

(The amendment was negatived.)

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move: that in the Schedule attached to the Bill, in column 1 of item 7, the commas and words ", other than cakes, pastries and sweetmeats" be omitted.

I submit, Sir, that these are foods which are used even by poor people as they are necessary for supplying sufficient protein and glucose in some form or other. So, I submit that this may be accepted.

Mr. PRESIDENT: Amendment moved: that in the Schedule attached to the Bill, in column 1 of item 7, the commas and words ", other than cakes, pastries and sweetmeats" be omitted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, these are delicacies which are reserved for the richer people and should not be exempted.

Mr. PRESIDENT: The question before the House is: that in the Schedule attached to the Bill, in column 1 of item 7, the commas and words ", other than cakes, pastries and sweetmeats" be omitted.

(The amendment was negatived.)

Rai Bahadur MANMATHA NATH BOSE: Sir, I beg to move: that in the Schedule attached to the Bill, in column 1 of item No. 10, the words "and cocoanut oil" be added after the words "and rape oil."

I think, Sir, cocoanut oil is used by all classes of people, and I therefore submit that this oil be also exempted.

Mr. PRESIDENT: Amendment moved: that in the Schedule attached to the Bill, in column 1 of item No. 10, the words "and cocoanut oil" be added after the words "and rape oil."

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: We could perhaps accept it if we were in Madras, because cocoanut oil is very commonly used there. It is not an absolutely necessary thing for the poor. So, on this ground we oppose the amendment.

Mr. PRESIDENT: The question before the House is: that in the Schedule attached to the Bill, in column 1 of item No. 10, the words "and cocoanut oil" be added after the words "and rape oil."

(The amendment was negatived.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move: that in the Schedule attached to the Bill, in column 1 of item No. 11, the words "butter and cheese" be omitted.

These are also the close preserves of the richer people. They are scarcely required by the poorer classes and should go out. For this reason, I move that these items should be removed from the Schedule.

Mr. PRESIDENT: Amendment moved: that in the Schedule attached to the Bill, in column 1 of item No. 11, the words "butter and cheese" be omitted.

(The amendment was agreed to.)

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move: that in the Schedule attached to the Bill, in column 1 of item No. 11, the words "*ghee* and curd" be added at the end.

Sir, *ghee* and curd are two important elements in our food, and I think sales of these two commodities should not be taxed.

Mr. PRESIDENT: Amendment moved: that in the Schedule attached to the Bill, in column 1 of item No. 11, the words "*ghee* and curd" be added at the end.

Rai Bahadur MANMATHA NATH BOSE: Sir, if milk is exempted, I do not see any reason why curd and *ghee* should not be similarly exempted. These are only preparations of milk. So, I submit that these should be exempted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I beg to state that if butter and cheese had stood in the Schedule, there would have been some logic that curds and *ghee* should also be included in the Schedule; but we have definitely excluded from the Schedule butter and cheese and for that very reason *ghee* and curds also should not come in.

(The amendment was negatived.)

Rai MANMATHA NATH BOSE Bahadur: Sir, I beg to move that in the Schedule attached to the Bill, after item No. 13, the following be inserted in column 1, namely:—

"13a. Household implements and utensils and earthen pots."

Sir, my submission is that if agricultural implements are excluded, as they should have been, I do not see why household implements, utensils, etc., should not be excluded. They are more essential than agricultural implements, and I therefore submit that my amendment may be accepted.

Mr. PRESIDENT: Amendment moved: that in the Schedule attached to the Bill, after item No. 13, the following be inserted in column 1, namely:—

"13a. Household implements and utensils and earthen pots."

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, these will automatically escape the tax because these things are not generally sold by shopkeepers who have a turn-over of Rs. 50,000. For these reasons it is not at all necessary to include them in the Schedule.

(The amendment was negatived.)

Rai Sahib JATINDRA MOHAN SEN: I beg to move: that in the Schedule attached to the Bill, the entries appearing in column 2 of item No. 16 be omitted.

Column No. 2 qualifies the sale of handloom-woven cloth. Column No. 2 says, "When sold by a dealer who does not sell any other kinds of cloth." Only in those cases will handloom-woven cloth not be taxed, but I do not see why handloom-woven cloth when sold by dealers who sell also other kinds of cloth should be treated as outcaste. As a matter of fact, if the logic advanced by Khan Bahadur Saiyed Muazzamuddin Hosain is correct, then handloom-woven cloth to the extent of Rs. 50,000 is not likely to be sold by the ordinary handloom cloth-dealers. Now, in that case it would be automatically excluded, but my experience is that considerable quantities of handloom-woven cloth are sold by dealers who also sell other kinds of cloth. Now, if it is intended to give benefit to handloom-woven cloth, then this benefit should also be extended to all classes of dealers who deal in handloom-woven cloth along with other classes of cloths. So, I move that this amendment may be kindly accepted by Government.

Mr. PRESIDENT: Amendment moved: that in the Schedule attached to the Bill, the entries appearing in column 2 of item No. 16 be omitted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, we are very much in sympathy with the amendment as regards the exclusion of all kinds of handloom-woven cloth from this taxation, but the difficulty is that if handloom-woven cloth be excluded in respect of shops where both handloom-woven cloth and mill-made cloths also are sold, then there will be great chances of evasion. On this ground, we thought it better to allow the exemption of handloom-woven cloths only when sold by dealers who do not sell any other kind of cloth. Sir, my friend said that there are not any shops which deal in handloom-woven cloth to the extent of a turn-over of Rs. 50,000. He is perhaps not aware that there are districts like Tipperah and Dacca

where Marwari *mahajans* go and purchase handloom-woven cloths to the extent of lakhs of rupees, and those things would not be subject to tax unless we put this provision in the Schedule. For this reason, we have included handloom-woven cloths in the Schedule and thereby we have indirectly given subsidy to the handloom cloth industry. With these words, I oppose the amendment.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, perhaps the honourable members are not aware that even the Madras Government during the Congress days had to exempt the handloom-woven cloths only when sold by persons dealing exclusively in such cloths. The administrative difficulty that would be involved, if only handloom-woven cloth is exempted in the case of dealers who deal in all other kinds of cloth, would be insuperable.

Mr. PRESIDENT: The question before the House is: that in the Schedule attached to the Bill, the entries appearing in column 2 of item No. 16 be omitted.

(The amendment was negatived.)

Rai Bahadur MANMATHA NATH BOSE: I beg to move that in the Schedule attached to the Bill, in column 1 of item No. 20, after the word "febrifuge" the following be inserted, namely:—

"and all medicines prepared in Bengal whether Kabiraji or Homeopathic or Allopathic; and all sera, ampoules and vaccines manufactured in Bengal."

Sir, my reason is this, that medicines prepared in Bengal are a part of the Bengal industry and are in an infant stage. They should not be stifled; but instead of a bounty to encourage the manufacture of these medicines a tax is being imposed. If this is done, the manufacturers of these medicines would not be able to compete with similar industries either foreign or made in other provinces. As regards Kaviraji and Homeopathic medicines, these are mostly used by poor people and if they are not exempted, the price will necessarily go up and the poor people will be put to difficulty. With these observations, I submit that my amendment be accepted.

Khan Bahadur NAZIRUDDIN AHMAD: On a point of order, Sir. This amendment seeks to deal with articles in Bengal and outside. As a matter of fact, articles produced outside Bengal must come to Bengal, but they would be hit by this amendment. In these circumstances, under section 292 (2) of the Government of India Act the amendment would be *ultra vires*.

Mr. PRESIDENT: Yes, the point is well taken. I rule this amendment out of order.

Rai Sahib JATINDRA MOHAN SEN: I beg to move: that in the Schedule attached to the Bill, in column 1 of item No. 24, for the words "coal and coke" the words "coal, coke, fuel-woods and charcoal" be substituted.

Sir, fuel-woods and charcoal are as good fuel as coal and charcoal. In Darjeeling and Kalimpong and other places large quantities of fuel-wood and charcoal are used. The amount of sale sometimes exceeds thousands of rupees. So I move that "coal, coke, fuel-wood and charcoal" be substituted for the words "coal and coke."

Mr. PRESIDENT: The question before the House is: that in the Schedule attached to the Bill, in column 1 of item No. 24, for the words "coal and coke" the words "coal, coke, fuel-woods and charcoal" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The House now stands adjourned for 15 minutes for the evening prayer.

(After the House re-assembled.)

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move: that in the Schedule attached to the Bill, item No. 25 be omitted.

Sir, item No. 25 relates to country liquor (including *tari* and *pachwai*), potable foreign liquor (including medicated wines), *ganja*, excise opium (excluding preparations of opium), *bhang* and *charas*. Now, by excluding these intoxicants from the operation of the Bill my honest belief is that it would have the effect of giving a fillip to the sale of intoxicants. Sir, country liquor, *ganja*, opium and things of that sort are ordinarily used as intoxicants by the very lower class people, people who are very poor and very illiterate. Now, if intoxicants are excluded from the operation of the Act, it would, as I said, Sir, give an impetus to the sale of these intoxicants and be harmful to the interests of the country. In that view, Sir, I move that item No. 25 be deleted altogether.

Mr. PRESIDENT: Amendment moved: that in the Schedule attached to the Bill, item No. 25 be omitted.

Mr. NUR AHMED: Sir, I beg to support this amendment. Sir, it is surprising that country liquor, country spirit and other similar intoxicants have been exempted from this tax. It has been the fundamental principle to impose tax on the consumption of alcohol. Of

course, it may be said that because opium prices are fixed by Government, they should not be taxed. My humble submission is that the price can be raised by one pice per rupee. Under such circumstances, I want to know from the Hon'ble Minister why wine has been excluded. So, I support this amendment.

The Hon'ble Mr. H. S. SUHRAWARDY: I would like to assure the honourable members that the fact why these articles have been exempted from taxation is not due to any particular leaning that I may have in favour of these items of luxury, but because they are governed by the excise laws. If it is necessary to tax them, they can be taxed under those laws which deal specifically with these intoxicants. The fact that they are exempt from the operation of this Bill will certainly not prevent their being taxed. As I said some time ago, Sir, it would be paying but little compliment to such luxuries to tax them just one pie or one pice in the rupee. As time passes and we need more funds, I have it in contemplation, Sir, to put on such items of luxury a higher tax than is contemplated by this Bill. Moreover, Sir, as Mr. Nur Ahmed has appreciated, the prices of these articles are fixed by Government and not only the price is fixed, but at the same time the strength and the quality or the weight are fixed by Government and therefore we can scarcely put on a tax when we ourselves order that it cannot be sold at a price higher than a certain amount. Since they are governed by their own specific laws, if it is desired to impose any tax at all, it can be done through the medium of the Excise laws. I hope, Sir, that in view of this explanation the Rai Sahib will be good enough to withdraw his amendment.

Rai Sahib JATINDRA MOHAN SEN: I withdraw the amendment, Sir.

Mr. PRESIDENT: Is it the pleasure of the House to permit Rai Sahib Jatindra Mohan to withdraw his amendment?

(By leave of the House, the motion was withdrawn.)

Mr. MOHAMED HOSSAIN: Sir, I beg to move that at the end of the Schedule attached to the Bill in column 14, after item No. 30, the following be added, namely:—

"31. Hides and skins."

Sir, this is a simple amendment. My purpose is to exempt hide and skin from the scope of the proposed Bill. Sir, it is an admitted fact that the trade in hides and skins has been affected very much by the Great War which is raging now in full vigour in Europe. The trade has practically lost almost all foreign markets and the result has been

very disastrous. The prices of hides and skins have come to an absolutely low figure, so much so that in some cases the sale does not cover the freight and other overhead expenses.

The only market now remaining is Madras where these goods are sold at a very low price. The vast number of poor men who used to live on this trade are practically starving. If a tax like this is levied at this stage, it will act like a last straw on the camel's back and will totally ruin this trade.

There is another aspect of this trade which I would like to place before the House. The finished leather shall have also to be taxed when the provisions of this measure are applied in connection with hides and skins. This would practically mean a double, rather a treble taxation, on the same commodity, *i.e.*, once as raw hides and skins, secondly when the hides and skins are tanned, and thirdly as leather-manufactured goods such as shoes, etc. The present system of this trade is that petty traders send these goods to Calcutta where the same are stored in *arats*. The *aratdars* then dispose of the same on commission basis to shippers who export these goods to Madras. In this way, these goods pass through more than one stage before they come in the market in the form of manufactured goods.

Under the circumstances, I would submit that there is no justification for levying a tax on this trade of hides and skins in raw condition. I would, therefore, request the Hon'ble Minister to accept my amendment.

Mr. PRESIDENT: Amendment moved: that at the end of the Schedule attached to the Bill after item No. 30, the following be added, namely:—

"31. Hides and skins."

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I rise to support the amendment. I think, Sir, hides and skins should be exempted and only the finished products should be taxed. Otherwise, this particular commodity will be doubly or trebly taxed, as has been pointed out by the mover. There will be evasions and in some cases there will be double taxation which is absolutely against the policy of this Bill.

In these circumstances, I support the amendment.

Khan Bahadur ATAUR RAHMAN: Sir, I also support the amendment, but at the same time I may draw the attention of the House to sub-section (*1*), item 2 of section 5. If the hides and skins are sold by a dealer to any person who buys for manufacturing other goods, such as leather and shoes, then I think it gets exemption under section

5 (*I*), item 2. Leather is considered to be a different thing and nobody buys hides except for the purpose of leather. So, automatically it gets exemption and there is no necessity of putting it in this Schedule.

The Hon'ble Mr. H. S. SUHRAWARDY: I find that there are two sets of views on the subject. It is quite possible that hides and skins purchased by a tanner whose turn-over is more than Rs. 10,000 may be exempted from taxation, but so far as small tanners are concerned, I am afraid they will have to pay the tax at the time of purchase. On the other hand, sale by these tanners to manufacturer,—say to the manufacturers of shoes or manufacturers of trunks,—will escape this tax. Most of these will have a turn-over of Rs. 10,000, but even where these hides and skins are purchased by a person with a turn-over of less than Rs. 10,000,—for instance shoe or trunk manufacturers,—then these manufacturers will not have to pay the tax and, therefore, they will be taxed only once and not twice; I mean, the tenants will be taxed only once and not twice. That probably will not apply to hides and skins which may also be taxed once. Therefore, to remove this anomaly, I am prepared to accept the amendment in this form, namely, that instead of hides and skins, the words should be "raw hides and raw skins." I believe this will meet the object of the mover.

Mr. PRESIDENT: Does the honourable member accept this amendment?

Mr. MOHAMED HOSSAIN: Yes, Sir, I am prepared to accept it.

Mr. PRESIDENT: The question before the House is: that at the end of the Schedule attached to the Bill after item No. 30, the following be aded, namely:—

"31. Raw hides and raw skins."

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that the Schedule, as amended, stand part of the Bill.

(The question was agreed to.)

Title and Preamble.

Mr. PRESIDENT: The question before the House is: that the Title and Preamble be added to the Bill.

(The question was agreed to.)

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I beg to move that the Bengal Finance (Sales Tax) Bill, 1941, as settled in the Council, be passed.

Sir, I desire to thank the honourable members of this House for the expeditious manner in which they have dealt with the Bill and have given us a reasonable chance of placing it on the Statute Book during this session.

Now, Sir, let me point out why it is that we have provided for such a large number of exemptions. We have tried to exempt as many necessities as we conveniently could, and also to prevent this taxation, however small it may be, from falling upon the poorer sections of the population. Sir, much has been said regarding the incidence of this taxation. There is hardly another piece of legislation in India concerning sales of goods, but if I may direct the attention of honourable members to a similar Act passed in Madras, then perhaps they will, to some extent, realise the length to which we have gone in exempting articles. In Madras, for instance, no mill-made cloth is exempt—whether coarse or otherwise. Handloom-woven cloth is exempted, only if the dealer deals in nothing else—in no other kind of cloth. But agricultural products which we have directly exempted are not exempt there except when the agricultural products are sold by growers themselves. Only at the first stage are these products exempt; but sales thereafter are not exempt. There is no exemption for articles such as kerosene oil, but country liquor, *ganja* and opium are exempted. As a matter of fact, in that piece of legislation poverty has not been taken into consideration as a ground for exemption. In this respect, I think we can compliment ourselves a little bit on the fact that we have paid consideration to these requirements of the poorer sections of the people and have gone as far as it was possible for us to go, compatible with the paramount necessities of the province to raise some funds to meet the requirements of our nation-building activities.

Mr. PRESIDENT: Motion moved: that the Bengal Finance (Sales Tax) Bill, 1941, as settled in the Council, be passed.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I rise to support the motion. In doing so, we must sincerely thank the Hon'ble the Finance Minister for the co-operation he has shown with the members of this House in improving the Bill. As far as I can remember, about 64 amendments have been accepted in this House. They are amendments more or less of a substantial character. In spite of this, I do not suggest that the Bill was badly drafted or the work was badly done in another place. On the other hand, I respectfully suggest that the members of the other House in dealing with a controversial Bill, have

generally very large questions to settle in an atmosphere of bustle and excitement and it is but natural that nice questions of draftsmanship might escape their notice. The main duty of the Upper House is to carefully go through the work done in the other House and our duty is mainly of a revisional nature. We have to go through Bills very carefully, and I submit that the entire Coalition Party is thoroughly satisfied with the way in which the Hon'ble the Finance Minister has piloted the Bill in this House in its various stages. We have had prolonged sittings and we are happy to say that his sole object, while considering the amendments, was really to improve the Bill, and in this he has earned the sincere appreciation of this House. These improvements made in this House, as I have said, do not show that the work was not well done in the other House. On the other hand, I submit the work was well done in that House. The amendments made in this House really show the need for an Upper House. If there is any lurking doubt anywhere in the mind of anybody about the need of an Upper House in the province, I may assure him that the Upper House has firmly planted itself in the scheme of things in the province.

Then, Sir, with regard to the general merits of the Bill, it is a vast improvement over the Madras Act. There, at each sale and at each stage of the sale of the same goods, there is a separate tax. But in Bengal there is tax only once in the successive sales. The present Bill is, therefore, a vast improvement on its predecessor. In Madras, the Government have taken power to change the Schedule at any time. The Government there can change the Schedule in any way they like, *i.e.*, the process of inclusion and exclusion of exemptions is left to the sweet will of the departmental heads. But in this Bill the process of inclusion in the Schedule, that is, the process of exemption from taxation alone is within the discretion of the Government. The process of removing the exemption is not in the hands of the Government, and in this matter the Hon'ble the Finance Minister has happily gone through a voluntary process of self-denial. This is highly praiseworthy, and this Bill is really a democratic Bill fit for a democratic province. The principle of the tax has been accepted by the Assembly which is primarily concerned with taxation measures. They are supposed to be more in touch with popular opinion and when they are overwhelmingly in support of this taxation measure, we would not lightheartedly reject the same as being an unpopular measure. The Assembly alone has the power over the budget, and this Bill is really a budget item in a permanent form, and this House, in the circumstances, should confine itself to matters of a drafting or formal nature in connection with this Bill. The Bill has been very carefully revised in this House, and I dare say everyone will agree with me that it goes back to the other House in a much improved form, and we can say with confidence that the improvements effected here will be readily accepted

in the other House. Sir, the Bill has been boldly conceived in another place and it has been very laboriously revised in this House. I submit, Sir, that there now remains for us nothing further to do than to accept the third reading of the Bill.

Rai Sahib JATINDRA MOHAN SEN: Sir, I rise to oppose the final passage of this Bill. I would have been very glad if I could congratulate the Hon'ble the Finance Minister for the labour he has spent on this Bill. As I said in the beginning, Sir, that this Bill was not an absolute necessity, and I am not yet convinced that this Bill is a necessity. It is not a war measure, and it will not supplement the loss of current revenue on account of expenditures directly or indirectly, on war purposes. It is not for the purpose of financing a special need of the province. As I said, Sir, previously at the time of the consideration of the Bill that if the Government had proposed two pice in the rupee instead of one pice in the rupee, I would have heartily supported the measure only if it was intended to spend the entire proceeds of the tax for the spread of primary education in the country. I am opposed, Sir, to this measure, because I am not convinced that money will be required for the purpose of financing the nation-building subjects. The Hon'ble the Finance Minister in his budget speech said that he was not in a position to balance the budget because there would be a huge deficit on the expenditure side. I was not convinced at the time, because my impression is that the income side has been underestimated and so far as the expenditure side is concerned, from the previous experience that we have had, we found that a considerable amount of money was not spent though budgeted year after year, and accordingly, there is every likelihood of a huge sum of money remaining unspent at the end of the year. I would have been very glad to support a measure of this nature if it was introduced after some months had passed. The Hon'ble the Finance Minister should have presented a supplementary budget. Now, Sir, in our experience we have found that many of the projects for the development of nation-building activities could not be taken up because there were no practical schemes to carry them out. Now, Sir, in the present budget we find that a considerable amount of money has been provided for financing or spending on the nation-building services. But I am very diffident, Sir, that when the year would be over a considerable portion of the proposed expenditure would remain unspent. So, I would have been glad to support a measure of this nature if after some months we found that the Government came up with some concrete scheme or proposal for financing the nation-building subjects. I for my part can very well say that we would have supported a measure of this nature. We are yet to be convinced that the money would be required for the nation-building subjects; on the contrary, my conviction is that most of the money would be spent on meeting extra establishment charges, would

be frittered away by giving out doles here and there to some nation-building projects only. There will not be an all-round improvement of the nation-building departments or subjects. So a great portion of the money will be lost.

Now, Sir, references have been made on the floor of this House that this Bill has followed the precedent of the Madras Bill. But that Bill was enacted for the purpose of financing or meeting the losses which were incurred for the purpose of introducing prohibition in that province. And here the tax will be utilised for the purpose of meeting the current expenditure of the province. My fear is that trade, commerce and industry would be unnecessarily taxed, and perhaps that is not the last word of taxation. Reserves should have been kept for the imposition of a tax of this nature for emergent and urgent occasions, and as many of my honourable friends have said more often than once that the limit of taxation has been reached and so a reserve should have been kept for the purpose of additional taxation when urgent and emergent occasion would arise or for the purpose of meeting the war purposes. That has not been done. So I am not yet convinced that this measure is at all necessary. My honourable friend Khan Bahadur Naziruddin Ahmad has said that this House has greatly improved this Bill and that that justifies the existence of this House as a second Chamber; but we find that the work that this House has done is that of a mere draftsman. As legislators we have done very little and all our attempts to improve the Bill from our standpoint have failed. My friend has congratulated himself on the able draftsmanship that he has exhibited by changing some words here and there for improving grammatical construction, and so on. I would like that the Government should have left to this House some legislative work to do, and I hope that in future legislation when the Government will come up before the House with other Bills, they would give us greater freedom to improve the Bills and not to improve merely the language or the grammar of the Bill. (Khan Bahadur NAZIRUDDIN AHMAD: We have improved the Bill to a considerable extent.) He may have done a good deal in the matter of improving the Bill, but so far as we on this side of the House are concerned, we do not consider that we have been fortunate enough to contribute anything towards the improvement of the Bill.

Now, I come to the details of the Bill. With regard to the details of the Bill, I am sorry that the Bill lays down some cumbrous and unsatisfactory procedure for determining the tax to be paid by a dealer. It has been said more than once that the one redeeming or outstanding feature of this Bill will be that the tax will be imposed only on one occasion or at one stage, and I have tried to go through the Bill with as much thoroughness as it was possible for me to do. but I found that there are many loopholes through which the tax can be avoided.

Now, in this Bill there is no provision to prevent a non-tax-paying dealer from enhancing the price of his goods on the pretext of paying this tax, and therefore the result may well be that many of the consumers may have to pay double or treble the amount of the tax at the hands of dishonest dealers. Sir, I have tried to find out whether there is any provision in the Bill under which the activities of any such dishonest dealer may be checked but, to my utter disappointment, I found that there was no such provision. Now, Sir, I shall draw the attention of the House to another matter. I moved an amendment for excluding bills of exchange from the definition of goods. Sir, I am connected with a scheduled bank, and I have some experience of bills of exchange and the functions and transactions which a bank has got to do. Banks do a huge amount of monetary transaction with bills of exchange. I had pointed out the other day that bills of exchange do not come within the meaning of security as is acceptable to the trade. Everyone knows that treasury bills are bills of exchange. It is a negotiable instrument and Government or a bank which has to purchase such treasury bills have to pay something like thirteen annas as interest, or they make a profit of something to that extent. Now, if 1·5 per cent tax is levied on such bills of exchange, then there would be a depreciation in the value of these bills of exchange, and thus I am afraid Government would be hard hit. So, this is a matter which I would beg the Hon'ble Finance Minister to consider even at the third reading of the Bill. I consulted the Hon'ble Leader of the European Party and he told me that the banks would have to get themselves registered as dealers. Even now, Sir, I cannot think that it was the intention of the sponsor of the Bill that he would net in the banks within the fold of the Bill, which will involve a considerable amount of dislocation of the business of the banks. I am not even now convinced in my mind as to whether this will not do a great deal of harm to the banking industry. With these few words, I beg to oppose the third reading of the Bill.

Mr. NUR AHMED: With your permission, Mr. President, I wish to make a few observations on this very important Bill the discussion of which has just now been finished. The opinion that I shall express will be my individual opinion which will not perhaps be shared by my own party. First of all, Sir, I wish to congratulate the Hon'ble Finance Minister who has piloted the Bill. I must say that he kept an open mind throughout the discussion of the Bill, and whenever he thought that any amendment proposed by us would improve the Bill, he accepted that amendment with a good grace. He discussed with us each and every amendment from every possible point of view, and I thank him very much for the spirit in which he has piloted the Bill. He has set up an ideal before us which should be imitated by his colleagues in the Cabinet.

Now, Sir, I must thank another gentleman who is also one of the staunchest advocates of the masses—I mean my friend Khan Bahadur Saiyed Muazzamuddin Hosain. I think it was from him that I first heard about this sales tax and learnt from him the principles governing a sales tax. Yet I am sorry that he thinks that the tax will not hit the poor; on the contrary, Sir, I am sure it will ultimately be the poor people, the poor and already over-taxed masses of Bengal who will have to pay this tax. The rich people who are in an advantageous position will not be affected by this tax. Sir, this tax will be realised from the poor people as well, and if anybody says that it will not affect the poor people, I think he has made a wrong conclusion about it. This tax from a theoretical point of view is not a good or progressive tax. It does not make a difference between tax-payers of different incomes. It is said that this tax has been enforced and adopted in 50 European countries and two of the Indian provinces; another province has now been added. Theoretically, it is a very simple tax, but it is very difficult to make a difference between tax-payer and tax-payer. It imposes a flat rate of taxation which has a tendency to hinder the industrial progress of the province.

Now, Sir, I must say a few words about this Bill with regard to the form in which it is going to be passed. It must be admitted that the Bill has been much improved in this House. It differs fundamentally from the Bills which are in force in Bombay, Madras and also in the Punjab. Of all such Bills it is the least objectionable in character, and all the objectionable features in the other Bills have been carefully avoided and precaution has been taken to see that the poor people are not harassed.

Sir, I was surprised to read an article in the *Hindusthan Standard* the other day. This Bill was practically supported by that paper with very much emphasis. In the issue of 4th March, 1941, under the head "Sale Tax Protest" it said that the principle of this Bill may be justified: most other countries have accepted it and the Congress-governed provinces have also accepted it. It is said there that in France before the war it used to yield 20 per cent. of its total revenue receipts; in the Philippines it contributes a third of the internal revenue receipts. Similarly, the rate of the tax, particularly as altered by the Select Committee on the Bengal Bill, may also find supporters. In Australia, the rate of the Producers Sales Tax is 5 per cent.; in Canada, the rate of the Sales Tax is 6 per cent.; in New Zealand 5 per cent.; in France the rate varies from 2 to 16 per cent.; and so on. The Bengal rate, as altered, compares favourably with these rates. Objections to the tax are, however, not so much on principle as with regard to its necessity and purpose. Its necessity, according to them, has not been established in spite of all the jugglery with the budget figures.

Then, Sir, it says that there is no necessity for it. As regards the necessity, the Hon'ble Finance Minister has proved that there is necessity, and that money is needed for the benefit of the Government of Bengal. But all that I want to say is that this Bill is a new Bill: it requires careful handling and the poor people may be harassed in many ways unless there is sufficient safeguard. There is a large number of small traders; they may be harassed by the officers who will administer this tax. There may be small traders whose turn-over is not likely to reach Rs. 10,000 or Rs. 50,000. I had tabled some amendments to exclude small traders by adding a clear provision whereby the tax would be levied at one stage only. But that was not accepted by Government. In actual practice, it may be that the small traders might be harassed, as is found in the operation of the Income-tax Laws. Many rich people do escape taxation, while many poorer people who do not come up to the standard required are still taxed. I think if that process is repeated here, these poor traders though they may not possess the necessary qualifications for assessment, may be brought within the purview of this Bill and they may be taxed. With these few words, Sir, I support the third reading.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Mr. President, Sir, I rise to support this third reading of the Bill. Sales tax has been the dream of my life since I entered politics. This is nothing new to me. I have been urging for it for the last four years. According to some of our honourable members, it is a tax which should be resorted to only on occasions of emergency but, I think, Sir, Bengal has been passing through an emergency all along since the Meston Award. Sir, we have it on the authority of our learned Professor Dr. Radha Kumud Mukherjee that Bengal had been so badly treated that while Madras with a population of 42 millions has got 17 crores to cater for social service of the province, Bengal has got only 11 crores for a population of 46 millions and Bombay has got 15 crores 22 lakhs for a population of only 19 millions. So, Bengal has been starving already from the time of the Meston Award, and unless we make some effort to improve the finances of the country, it would be impossbile to do anything for Bengal in the shape of ameliorative measures for the masses, and we would not be able even to follow the standards of other provinces like Madras and Bombay. For that reason, Sir, it was, I think, overdue that some taxation should have been imposed long ago in Bengal, at least with the introduction of Provincial Autonomy.

Sir, I congratulate the Hon'ble Minister that he has at last introduced this taxation measure for improving the lot of the masses of this province through ameliorative measures. It is not really for balancing the budget as has been said by some of my friends opposite. The budget has disclosed a deficit, but this deficit

in the budget is due to the maintenance of progress in nation-building departments. If the progress had not been maintained, if the Government had given up the idea of introducing free primary education and extending it from district to district, there would have been no necessity for a tax like this at all. They have other things also in contemplation, for example medical treatment, establishment of dispensaries in every two unions, and they have also the water-supply schemes and other schemes in their contemplation which they have to finance. Are we to sit idle for the settlement of our dispute with the Centre or are we to wait till the termination of the war and stop till that time all our progressive works for the amelioration of the country? Is it the attitude of the gentlemen opposite, that we should remain where we are and should not try to do anything to improve our lot or to improve the lot of the masses of this province but should wait indefinitely for the termination of the war or for the settlement of the Meston Award? (The Hon'ble Mr. H. S. SUHRAWARDY: The Niemeyer Award too.) Yes, even the Niemeyer Award is as much unjust and only a little better than the Meston Award, and it is almost as unjust to Bengal as the other Award. But we are glad, Sir, that at least the Hon'ble Finance Minister realises that something must be done and for that reason mere tall talks will not do. We must tax ourselves if we want real work. Sir, sales tax is the order of the day. If we want service, we must tax ourselves. This indirect tax on sales is the best form of taxation. All the European countries have resorted to it. Because direct taxation, however small it may be, causes hardship to the people. But people will not mind paying one or two pice in the rupee at the time of purchasing a thing. Even the poorest of the poor will not feel that, and this tax after all is going to help the building up of progressive development of the country. For this reason, I think this is the best form of taxation. I congratulate the Hon'ble Minister that he has taken considerable care to exclude most of the articles which the poor people use so that this tax may not be a hardship to them. Speaking personally, I was strongly against the imposition of taxes on coarse cloth which is the only article used by the poor which has not been exempted from taxation. We discussed for days and weeks together as to whether coarse cloth should not be exempted so that the poor may not be hit, but at last it was found that if we were to exempt coarse cloth it would be very difficult to distinguish between coarse cloth and fine cloth and this would lead to evasions and there would be no knowing what means would be taken by the dishonest shopkeepers in this respect. At last it was decided that the poor should be given some sort of compensation. I hope the Hon'ble the Finance Minister will make a statement that he is going to contribute something directly for the help of the poor out of this tax, so that we may start for the first time to lay the foundation of Poor Law for the benefit of the poor of this country.

Sir, much of the opposition has been due, I understand, to not properly appreciating the important provisions of the Bill. This tax will be only on bigger merchants who will deal with a turn-over of over Rs. 50,000 and on manufacturers or importers with a turn-over of Rs. 10,000 only. They will have to register themselves, and when they sell to an unregistered dealer or to a consumer, they will realise the tax from them. There is much apprehension that small shopkeepers will be adversely affected, but if the provisions of this Bill are understood, it will be found that this tax will not be as harsh as many of my friends would think it to be. The receipts of this tax should not, however, be spent on palliative measures, but on major measures, such as improvement of the country in general by improving the agricultural condition and industrial conditions in particular and also by driving illiteracy out of the province. With these few words, Sir, I support the third reading of the Bill.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, I am glad that this House has made some improvement in the Bill, but the improvement has not been in the direction desired by us. Most of these improvements have been, as a friend from this side of the House has pointed out, in the direction of drafting. However, that improvement is due to the co-operation of my friends and also of the Hon'ble Finance Minister. I must thank them for this co-operation and for having accepted some of the amendments moved from our side of the House.

Sir, my party is not opposed on principle to a taxation measure of this nature. The Government is at liberty to propose or bring forward any taxation measure, but they must justify their demand; they must satisfy the people that the demand made by them is reasonable and justifiable. On the present occasion, I am afraid that it is not the case. Government have not brought forward any facts and figures by which we can judge whether the demand which they have made is for the benefit of the people, for the benefit of the nation-building departments. No definite scheme has been evolved by Government to show that this or that scheme will require this or that amount of money. All that they have said is that the budget is a deficit budget and that money is wanted to improve the various nation-building departments. But, Sir, there is no definite proposal from Government from which we can form an idea as to what schemes of popular welfare are proposed to be financed.

My friend Khan Bahadur Saiyed Muazzamuddin Hosain perhaps misunderstood the views of my party when he said that we did not want any taxation measure at all. On the other hand, Sir, the views of our party are that there should be some definite purpose for which

this taxation should be levied. He himself had tabled an amendment that the proceeds of this tax should be spent on the improvement of education, public health and such other things. Our party view is also practically the same. Government should have put in a clause in this Bill suggesting that the proceeds of the tax would be spent on nation-building departments. We find from previous experience that whenever some additional funds become available to the Government, they always take advantage of that and spend all the money on "General Administration." When, for instance, the Amusements Tax Bill was passed, it was promised by the Hon'ble Member in charge of the Bill that the whole of the receipts from that tax would be placed at the disposal of the nation-building departments. But, Sir, what is the fact? All the money had been diverted to the ordinary purposes of administration. We do not yet know what portion of the money had been spent on the nation-building departments and what portion on "General Administration." So, there is this difficulty. What I wanted was that there should be a definite provision stipulating that this money should be spent on special schemes of the nation-building departments, and it should be shown in the budget: money should be ear-marked: otherwise Government is not justified in bringing a Bill like this. There is one other factor which we should remember and which should be taken note of, and that is that we are passing through a critical time. Although the war is not actually at our door, at any rate we have got to defend our country and spend our energy and money for the successful prosecution of the war. The capacity of the people has been exhausted and there is no denying the fact that it is so. The Taxation Enquiry Committee Report said long ago that the capacity of the people to pay tax has been exhausted. But since then two or three taxation measures have been passed and the people thus have come to the end of their tether. If at the present moment people have to contribute towards the successful termination of the war, how can they do so if the people is exhausted by paying taxes? I think it is the duty of Government to see that the people are able to save the country by all means. It is more important.

At the same time, in taking up this attitude, I am mainly guided by the fact that India is a large country and it is highly desirable that we should be careful not to spend our money lavishly. But I do not say that for the sake of war new schemes or general progress of the province should be abandoned or postponed, but it should be done according to the finances of the province—according to the circumstances in which we are placed. We should cut our coat according to the cloth.

Another factor which I should like to bring to the notice of the House is that we should consider whether the rate of tax proposed is

adequate for the purpose, or it will fetch more income than is necessary for our purpose. In my opinion, and it is also the opinion of the European Group I understand, that the rate of taxation could be reduced. Rai Sahib Jogendra Nath Roy moved an amendment in this connection the other day, but I am sorry to say that it was lost. In my opinion, it is better for the Government to reduce the rate of tax and see what the tax fetches. From the budget speech of the Hon'ble Finance Minister last year, we find that the estimate of receipts which he made last year was lower. The actual receipts were much more than it was estimated. So, Sir, it is better to reduce the tax and then wait to see what it fetches. If more is wanted, the rate can be increased. It is not desirable to fix the rate at a higher level and to bring in more income than is necessary. Sir, the third point which I wish to emphasize is: how far this taxation will affect the trade. There are people who say that trade will be affected and the poorer classes will be affected also. But there are others who say that the trade would be affected to a certain extent, but not so much. However, the Bill is so cumbrous that it is very difficult to understand whether the trade or the industry of the country will be affected. If that be so, I think Government should be very careful to see that the development of our industries is not affected at all. The Bill as drafted is very difficult to understand. The details are cumbrous to understand and on the whole I think it will lead to evasion of the tax and tend to interfere with the trade and industry. Though I agree with the principle, I cannot support the Bill as it has emerged for the reasons adduced by me.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I thank those honourable members who have voiced their appreciation of my humble service. I think, Sir, I have tried my level best to meet their points of view as far as is compatible with the successful working of the Act. May I too, Sir, appreciate the services which the honourable members have rendered and which have led to a distinct improvement of the Act? I do not agree with those honourable members who think that in this House no real improvement has been effected except only some improvement in the draft or some verbal alterations. There have been substantial improvements effected, Sir, which we on the Government side and also the Legislative Department appreciate very much. Sir, I desire to assure the honourable members once more that we consider that the amount that we propose to raise is essential for the requirements of this province and for the expansion of our nation-building activities. Otherwise, Sir, I would never have introduced a measure which is so liable to be misunderstood and which is so liable to be exploited by our political opponents.

Rai Sahib Jatindra Mohan Sen has raised a point that there is nothing in this Act to prevent profiteering. To prevent this there is

another department of Government, and if we find that this Act is being utilised by traders for the purpose of profiteering and for increasing unconscionably the prices of articles, certainly, Sir, Government will take steps, both executive and legislative, as they may be advised. We will not allow this taxation measure to be utilised by the traders for extracting more profits. Mr. Sen has also suggested that probably this taxation on bills of exchange will have an adverse effect on banking business. If that proves so, I should certainly amend the Act at the earliest possible opportunity, because we have no desire whatsoever to affect banking business and to cause it any damage.

Khan Bahadur Saiyed Muazzamuddin Hosain has voiced his sentiments that coarse cloth might be exempted and he also pointed out to this House that although Government was sympathetically inclined towards the exemption of coarse cloth, we could find no way by which this could be administratively dealt with. Sir, the ordinary coarse cloth made by our villagers, namely, such cloth as is made by our weavers and are sold in *hâts*, will automatically escape taxation but such coarse cloth of mill-made variety which the people might use have to bear this kind of taxation, to some extent. Even the Madras Government could not find a way out by which it could exempt coarse cloth but, of course, you can say this is no argument as the Madras Government has not exempted any article whatsoever on the ground of poverty. In order, Sir, to compensate the poorer section of our people for the amount of tax that they may have to pay on account of the purchase of cloth of the coarser variety—and I do not think it will be much, because an ordinary villager's family hardly purchases more than two or three pairs a year—we do propose to set apart, at any rate, some portion of the tax in order to encourage the establishment of a Poor Fund in every place or in every union, so that out of that fund the necessities and requirements of the needy can be met. We would not be able to do this unless we have adequate funds at our disposal. We are anxious to do this. Therefore, as soon as we can work out proper schemes by which these funds can be distributed, some portion of the tax will be set apart for this purpose.

Sir, I need hardly controvert all the points raised by the Raja Bahadur of Nashipur. He should realise that if he wants further service, the cost of the general administration will have to be raised. If you want that there should be more service for the cattle of the villagers, you have got to appoint more veterinary doctors. If you want to improve the methods of agriculture, you must appoint agricultural demonstrators. If you want to settle agricultural indebtedness through Debt Conciliation Boards, you must appoint officers for the purpose. And this is bound to raise the cost of the general administration.

Sir, I have nothing more to add. I am grateful to the honourable members for the sympathetic manner with which they have dealt with the provisions of the Bill.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: On a point of personal explanation, Sir. I have not said that the appointment of officers to develop the nation-building departments would be objected to. If it be for the improvement of the nation-building departments that these officers are appointed, then it is unquestionable. But I said that the money should not be spent on works not concerning the nation-building departments.

Mr. PRESIDENT: The question before the House is: that the Bengal Finance (Sales Tax) Bill, 1941, as settled in the Council, be passed.

(The motion was agreed to.)

Mr. PRESIDENT: It is time for prayer again. If the House desires to take up the next item on the Order Paper, namely, the Bengal Local Self-Government (Amendment) Bill, the Chair will be prepared to sit late.

Report of the Land Revenue Commission.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I understand that the honourable members are not very keen on discussing the Report of the Land Revenue Commission which is fixed for to-morrow. So, this may not be taken up to morrow.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, may I submit certain difficulties with which we are confronted in discussing the Land Revenue Commission's Report? It is this: We have not been furnished with the evidence that was given before the Commission. A Special Officer sat over the report; he has considered the financial implications of the Commission's report and has submitted his report; but we are deprived of the use of the evidence, the proceedings and the report. How is it possible for us to discuss the report unless we are supplied with these documents? It will serve no useful purpose if we just make some academic and formal remarks about the report. We are expected to discuss the subject as if we are

so many actors in a theatre. I therefore think, Sir, that the discussion of the report of the Commission cannot be held during this session unless we are supplied with those documents. The evidence and the proceedings on which the report is based are necessary for us to enable us to appreciate the report and to discuss it properly. The Special Officer's report is also equally necessary. I therefore request the Government to supply the same to the members well in advance so as to enable them to take part in the discussion in a useful manner.

Mr. PRESIDENT: May I take it, therefore, that honourable members belonging to all parties in the House are unwilling to discuss the Floud Commission's Report to-morrow? (Cries of "Yes, Sir. Yes, Sir" from honourable members.) I find there is a general disinclination on all sides of the House to discuss the report to-morrow.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: In that view of the matter, Sir, can utilise to-morrow for discussion of the Local Self-Government (Amendment) Bill and adjourn now.

Mr. PRESIDENT: Then it is settled that the House will take up the Bengal Local Self-Government (Amendment) Bill to-morrow. I now adjourn the House till 2-15 p.m. to-morrow, the 1st April.

Adjournment.

The Council then adjourned till 2-15 p.m. on Tuesday, the 1st April, 1941.

Members absent.

The following members were absent from the meeting held on the 31st March, 1941:—

(1) Mr. Kader Baksh.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Mr. Shrish Chandra Chakraverti.
(4) Mr. Narendra Chandra Datta.
(5) Mr. Kamini Kumar Dutta.
(6) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(7) Khan Bahadur Syed Muhammad Ghaziul Huq.
(8) Khan Bahadur M. Abdul Karim.
(9) Maulana Muhammad Akram Khan.
(10) Dr. Radha Kumud Mookerjee.
(11) Mr. Ranajit Pal Chowdhury.
(12) Khan Bahadur Mukhlesur Rahaman.
(13) Dr. Kumud Sankar Ray.
(14) Khan Bahadur M. Shamsuzzoha.

B. G. Press—1941-42—2337Ag—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 1st April, 1941, at 2-15 p.m., being the twenty-first day of the First Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Use of cabins attached to the Medical College Hospitals by Assistant Surgeons.

66. Mr. RANAJIT PAL CHOWDHURY: Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state—

(a) if it is a fact that Assistant Surgeons employed in Government service before 1929 were entitled to the use of cabins attached to the Medical College Hospitals, free of charge, in cases of their personal illness or that of any member of their families;

(b) if it is a fact that Assistant Surgeons appointed after 1929 were entitled to the use of cabins attached to the Medical College Hospitals on payment of 50 per cent. of the scheduled charges in cases of their personal illness only;

(c) whether he is aware that the rules relating to the above-mentioned facilities have recently been modified drastically as the result whereof all Assistant Surgeons employed in Government service, except those who happen to be attached to the Medical College group of hospitals, have been deprived of those privileges;

(d) whether it is not a fact that the Assistant Surgeons who are going to be affected by the modification of the rules referred to in paragraph (c), entered Government service with a clear knowledge of the existence of the facilities about the use of cabins as mentioned in paragraphs (a) and (b) above and of their availability during the entire period of their service; and

(e) whether it is not a fact that the scale of pay and other emoluments of the cadre of Assistant Surgeons is lower than that of other provincial services?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: (*a*) to (*c*), Yes.

(*d*) The facilities for free or half-free treatment did not constitute a condition of their service.

The matter of concessions to Assistant Surgeons will, however, be re-examined.

(*e*) Yes. The pay of the Bengal Medical Service officers has been fixed at a lower rate than in other provincial services, for the reason that they are entitled to private practice from which they augment their income. In respect of posts in which private practice is not allowed, compensatory allowance is paid to the officers holding such posts.

Khan Sahib ABDUL HAMID CHOWDHURY: Arising out of (*d*), will the Hon'ble Minister be pleased to state whether the matter of restoration of the concession to the Assistant Surgeons has already been taken up for re-examination? If not, by what time the decision of the Government in the matter is expected?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: It is difficult to give a definite time. As I have already said, it is being re-examined.

Khan Sahib ABDUL HAMID CHOWDHURY: Will the Hon'ble Minister be pleased to state if he will consider the hardship of these medical officers and reconsider their case sympathetically?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Yes, certainly.

The Narandia Union Board.

67. Khan Sahib ABDUL HAMID CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Public Health and Local Self-Government Department be pleased to state if it is a fact—

(*i*) that there is a Union Board known as Narandia Union Board under Kalihati thana in Tangail subdivision of the Mymensingh district;

(*ii*) that Afaz Uddin Talukdar was a member of the said Union Board who died more than a year ago; and

(*iii*) that no action has yet been taken to fill up the vacancy caused by the aforesaid death?

(*b*) If the answer to paragraph (*a*) (*iii*) above be in the affirmative will the Hon'ble Minister be pleased to assign reason of delay in taking action in the matter?

(*c*) Will the Hon'ble Minister be pleased to state if the Government propose to take action to fill up the aforesaid vacancy immediately? If not, why not?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Steps have been taken for the collection of the information which is not yet available.

SHORT NOTICE QUESTIONS

Mr. LALIT CHANDRA DAS: On a point of information, Sir. I had tabled a short-notice question and the Hon'ble the Chief Minister promised to reply to it. The question relates to the communal situation in the districts of Chittagong and Noakhali. But I find that the Chief Minister is not present to-day.

Mr. PRESIDENT: Order, order. You may put your question. The Hon'ble Leader of the House will reply.

Mr. LALIT CHANDRA DAS: All right, Sir.

(*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether it is a fact that the communal situation both in Noakhali and Chittagong has, of late, much deteriorated? Have armed pickets been posted in Chittagong?

(*b*) What steps have been taken by the Government to prevent outbreak of communal riots and for restoration of communal harmony both in Noakhali and Chittagong?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) There was for a short time recently some increase of tension in both districts. I have no information as to whether pickets have been posted in Chittagong.

(*b*) The latest reports show that all is quiet in Chittagong and both there and in Noakhali it is hoped that the tension will be eased and that no communal riots will take place.

Mr. KANAI LAL GOSWAMI: On a point of information, Sir. I had also tabled a short-notice question. May I know if it will be replied to-day?

Mr. PRESIDENT: In the case of a short-notice question it is for the Government or rather the department concerned to decide whether they will accept it at short notice or not. So far as your question is concerned, we have no intimation yet that it has been accepted as a short-notice question.

Mr. KANAI LAL GOSWAMI: I want to know, Sir, if the answer is ready.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: What is the question, Sir?

Mr. KANAI LAL GOSWAMI: Shall I read out the question, Sir? It is this—

Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) in respect of what articles, comments or news the publication of the paper *Dainik Basumati* of Calcutta has been banned for a period of 3 years;

(*b*) why this case of the *Dainik Basumati* was not referred to the Provincial Press Advisory Committee to clarify the misunderstanding or assist the Government and the *Dainik Basumati* concerned in a correct appreciation of the situation; and

(*c*) why was not the ordinary law of the land requisitioned to give the publisher, printer and editor of the paper an opportunity to stand their trial and vindicate their standpoint?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, speaking from memory, I may reply to the question as follows: The article was published in the issue of the Paper on the 23rd March and the matter was referred to the Press Advisory Committee. What is the last portion of the question, would you mind repeating it?

Mr. KANAI LAL GOSWAMI: Why was not the ordinary law of the land requisitioned?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Because, Sir, Government thought that the Defence of India Rules would be more effective and they thought this is a fit case for being dealt with under the Defence of India Rules. That is why, Sir, the Defence of India Rules were applied.

Mr. LALIT CHANDRA DAS: What was the article about?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I cannot recall the article from memory. If the honourable member will kindly see the issue of the 23rd of March——

Mr. LALIT CHANDRA DAS: Is not the Hon'ble Minister aware that that issue is banned and we cannot look into it; it has been forfeited?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If the honourable member will please come to me at the Writers Buildings, I can show him that article.

Mr. LALIT CHANDRA DAS: Is there any law prohibiting the Government or the Hon'ble Minister from enlightening the whole House as to what the article is about?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I expect that the honourable members opposite would appreciate the courtesy shown to them by my coming forward to answer the question, although I did not receive timely intimation of this short-notice question. As a matter of fact, Sir, I answered it from memory. I did not expect this cross-examination. I have not carried the article in question with me.

Mr. LALIT CHANDRA DAS: It is not cross-examination at all. The Hon'ble Minister is giving the reply in connexion with the article but it appears he himself does not know what the article is about. The answer may stand over or if you know what the article is about, will you be pleased to enlighten the whole House about its contents?

Maulvi ABUL QUASEM: We do not want to know what the article was about.

Mr. LALIT CHANDRA DAS: You seem to arrogate to yourself the right of the whole House.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Certainly, the article is not confidential. It was published in a newspaper. It would be a very simple matter (if it be available just now) for me to show that article. But as I said, I have answered this short-notice question although I did not receive timely notice of it. I do not remember the details but I remember it was something about the *Dainik Barumati*.

Mr. LALIT CHANDRA DAS: What was the article about?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not exactly remember.

Mr. PRESIDENT: Honourable members should appreciate the fact that the Leader of the House is answering this short-notice question only out of his goodness. It was not accepted as a short-notice question by the Government. If the Hon'ble Minister is not in a position to reply to a particular point, it is not fair to press for an answer.

Mr. BANKIM CHANDRA DATTA: Sir, really we are grateful to the Leader of the House for being good enough to answer this short-notice question. We do not want to know from him what the article was about; we only want to know what was the offence committed by this particular Paper—the *Basumati*.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The Government thought it was going to create a situation which would be inimical to the war efforts of Government.

Mr. LALIT CHANDRA DAS: May I make one suggestion?

Mr. PRESIDENT: You may ask supplementary questions.

Mr. LALIT CHANDRA DAS: All right, Sir. Will the Hon'ble Minister please answer this question more fully as an ordinary question later on?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I expect proper notice for that from the honourable member.

Mr. LALIT CHANDRA DAS: The notice of this question has already been sent.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Then the answer will be supplied in due course.

Mr. KANAI LAL GOSWAMI: Sir, I had tabled another short-notice question which runs as follows: Will the Hon'ble Minister in charge of the Home Department be pleased to state (*a*) whether it is a fact that on the 23rd March, 1941, a large crowd of Mussalmans from outside numbering about 7,000 or 8,000 tried to invade the town of Mymensingh and that the Additional Magistrate and the Superintendent of Police with a posse of constables and armed police turned them back, and——

Mr. PRESIDENT: I would not have allowed this question to be put at short notice but as to-day may be the last day of the session, I allow this.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I cannot answer this question.

Mr. PRESIDENT: Mr. Goswami you may put your question but you cannot press for its answer.

Mr. KANAI LAL GOSWAMI: All right, Sir, I have read out (*a*). I will now read out (*b*): What was the communal situation there then and how is it now?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have not heard anything about this.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, may I give some information relating to this matter from my personal knowledge, as I was present at Mymensingh on that day? That day, 23rd March, was the "*Pakisthan Day*" and people were coming to attend the meeting. But instruction had been received that there should be no meeting. So they were asked to go away. That is all. There was no attack, no intimidation, nothing of the sort.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Sir, may I, with your permission, move a motion of felicitations on the capture of Karen and Harrar by the Indian soldiers?

Mr. PRESIDENT: Yes, as a special case, I allow Mr. Roy Chowdhury to move his motion.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Sir, my motion runs thus: This Council conveys its warmest congratulations to the Indian soldiers on the conspicuous gallantry shown by them in bringing about the successes in capturing Karen and Harrar and the Council is of opinion that a message be sent to His Majesty expressing our rejoicings over the matter.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, the question is whether the matter should be taken up to-day. I may draw the attention of the House to the fact that this matter is going to be discussed in the other House also. And if such a matter is to be discussed in this House, then I think a day should be specially fixed for the purpose.

Mr. PRESIDENT: I understand the House is going to be prorogued to-day although I have not yet received any communication from His Excellency the Governor. In that case, we shall have no time except to-day to deal with the motion.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Sir, would it not be better to send the message to His Excellency the Commander-in-Chief of His Majesty's Forces in the Near East, I mean Sir Archibald Wavell?

Mr. PRESIDENT: But it has been moved in another form already.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I would like to move an amendment on those lines.

Mr. PRESIDENT: Why not ask Mr. Roy Chowdhury if he is willing to amend his motion in that way?

I may state, however, that ordinarily motions of congratulation on occasions like this are moved by the Leader of the House: that is the ordinary Parliamentary practice. So I suggest that it would be better for Sir Bijoy Prasad to move a properly-worded motion on the subject.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir, I am quite prepared to move the motion.

May I move it now, Sir? My motion runs as follows:—

"This Council conveys its sincerest congratulations to the Indian soldiers for the gallantry shown by them in capturing Karen and Harrar and requests the Government of Bengal to convey this motion to Sir Archibald Wavell, Commander-in Chief of His Majesty's Forces in the Near East."

Sir, the whole of the British Empire should be grateful——

Mr. J. B. ROSS: If I may interrupt the Hon'ble Leader of the House. I think that the resolution, as drafted, is factually incorrect. It is not the Indian soldiers alone that fought at Karen and Harrar. There were Scotish soldiers and others also. So, I think if a resolution is to be moved, it should be factually correct.

Mr. PRESIDENT: I suggest that a proper resolution be drafted and taken up last thing to-day.

Mr. HUMAYUN KABIR: May I suggest, Sir, that it be taken up to-morrow. The third reading of the Local Self-Government Bill cannot be taken up on the same day——

The Bengal Local Self-Government (Amendment) Bill, 1941.

Mr. PRESIDENT: Order, order. The House will now resume discussion of the Bengal Local Self-Government (Amendment) Bill, 1941.

Clause 1.

Mr. PRESIDENT: The question before the House is: that clause 1 stand part of the Bill.

(The motion was agreed to.)

Clause 2.

Mr. PRESIDENT: The question before the House is: that clause 2 stand part of the Bill.

(The motion was agreed to.)

Clause 3.

Mr. PRESIDENT: Clause 3 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: May I have your permission, Sir, to move amendment No. 3A instead of No. 3? It is only a revised draft.

Mr. PRESIDENT: Yes.

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move: that in clause 3 of the Bill, for the proposed section 18B, the following be substituted, namely:—

"18B. (*1*) If there is any dispute as to the validity of an election of a member of a District Board or a Local Board held under this Act, any person entitled to vote at such election may, within thirty days after the date of the declaration of the result of such election, file a petition before the District Judge of the district within which the election has been held or should have been held, calling in question such election on one or more of the grounds set forth in clauses (*a*) to (*e*) of sub-section (*1*) of section 18D or section 18E.

(*2*) In every petition filed under sub-section (*1*) all the candidates at the election to which the dispute relates shall be made parties.

(*3*) The petitioner shall, at the time of filing the petition under sub-section (*1*), deposit in Court one hundred rupees as security for the costs likely to be incurred by any of the respondents:

Provided that the validity of any election shall not be questioned in any petition under this section—

(*a*) on the ground that the name of any person qualified to vote has been omitted from the electoral roll, or

(*b*) on the ground that the name of any person not qualified to vote has been inserted in the electoral roll."

Sir, the difference between the Bill-clause and the amendment is this: first of all, the proposed sub-section *(2)* in the amendment, requiring all candidates to be made parties, is new. It is very desirable that an election petition should be heard in the presence of, or at least after notice to, all parties concerned, because it is impossible to anticipate what the course of events will be at the hearing and what orders it may be required for the Judge to pass. It is therefore necessary that the presence of all interested parties should be ensured. The other difference is that the first proviso of the proposed sub-section *(1)* in the Bill-clause is a transitory provision, *i.e.*, if the Bill is passed, it will affect only pending cases inasmuch as it provides that all cases pending at the time must cease and within 30 days of the passing of the Act, a petition drawn up on the terms of this Bill may be filed before the District Judge. As I have said, this is a transitory provision and so it should not be inserted into a section which would be permanently incorporated in the main Act. Its proper place is clause 9 which partly deals with this matter. I have therefore transferred the first proviso from this place to clause 9 which is also a transitory provision and this would eliminate the necessity of introducing this temporary provision into the permanent Act, so that it would not be necessary at a future date to repeal the same when its force would be spent. The first proviso will be re-introduced later on as amendment No. 56A in the list of amendments. These are the main changes.

Now, Sir, with regard to the amendment, there are the opening words "If there is any dispute as to the validity of an election by reason of" etc. I should consider these words to be redundant but I have agreed to accept them because I find that this version has received the largest amount of support. It is not at all necessary to mention them, because a dispute is very much implied in the very conception of an election petition. The opening words might give one the false impression that a dispute—a preliminary dispute—is necessary before filing a petition; that is, the parties must face each other and have a dispute before there would be the right to apply under the section. But I hope that there will be no misunderstanding on this score. I have explained the reason why I have accepted this change in my original amendment. Then, there are the words "the place where the election was held or *should have been held*." With regard to this passage, there is a misunderstanding that these words have been introduced to provide for cases where an election was to be held but as a matter of fact it has not been held. But the proposal is to *set aside* an election; not an election which '*should have been*' held but an election which *has been actually held*. But this draft has received the largest measure of support and therefore I had to accept it. I submit, Sir, that at some later date the provisions relating to setting aside of elections in all the local self-governing bodies should be thoroughly revised and I may place before the House a comprehensive

Bill for the purpose. So, in anticipation of such a measure, I propose this amendment and I submit that, with all its defects, it is an improvement on the existing state of the law, and that as such the amendment should be accepted.

Mr. PRESIDENT: Amendment moved: that in clause 3 of the Bill, for the proposed section 18B, the following be substituted, namely:—

"18B. (*1*) If there is any dispute as to the validity of an election of a member of a District Board or a Local Board held under this Act, any person entitled to vote at such election may, within thirty days after the date of the declaration of the result of such election, file a petition before the District Judge of the district within which the election has been held or should have been held, calling in question such election on one or more of the grounds set forth in clauses (*a*) to (*e*) of sub-section (*1*) of section 18D or section 18E.

(*2*) In every petition filed under sub-section (*1*) all the candidates at the election to which the dispute relates shall be made parties.

(*3*) The petitioner shall, at the time of filling the petition under sub-section (*1*), deposit in Court one hundred rupees as security for the costs likely to be incurred by any of the respondents:

Provided that the validity of any election shall not be questioned in any petition under this section—

(*a*) on the ground that the name of any person qualified to vote has been omitted from the electoral roll, or

(*b*) on the ground that the name of any person not qualified to vote has been inserted in the electoral roll."

Mr. HUMAYUN KABIR: Mr. President, Sir, I have much pleasure in supporting this amendment which has been moved by my honourable friend. With him, I shall also repeat that this amendment, though it goes a little way, does not go far enough. He ended his speech by saying that he has introduced certain salutary improvements in the Bill-clause, as drafted. He has himself admitted that the amendments which he has brought forward do not embody all the improvements that are necessary. I shall, however, at the outset congratulate him for having discarded the proviso, even though he threatens that it is to be reintroduced later on. He himself admits that it is of an undesirable character. But he wants to defend himself by saying, because I presume no other defence is possible for him, that it is of a transitory nature,—a measure for allowing this Bill to come into operation,—and that the proviso should therefore find a place in clause 9 of the Bill. I think that the proviso which he has dropped here should be dropped for good. However, I shall, for the present, reserve my remarks with

regard to this proviso. Here, I would only like to point out two other difficulties which still remain in spite of the amendment which has been moved by my honourable friend. In very many cases, this deposit of Rs. 100 will act as a great hardship upon the candidates of district and local boards. In many cases, the candidates of local and district boards are not persons possessed of a superfluity of funds and it may be that arrangements should be made that they should provide security instead of depositing cash money. I think this alteration, if made, would go to some extent in meeting the objection.

With these few words, I support this motion.

Mr. NUR AHMED: Sir, with your permission I wish to make a few observations on the amendment now under consideration. I find two important changes have been made here. In the Bengal Municipal Act of 1932, similar words "entitled to vote" first occurred when the original Act was passed. But at the time of its actual working, difficulty was experienced and it was felt necessary to bring an amending Bill wherein the words "entitled to vote" was changed into "qualified to vote." The result is that the person qualified to vote, though not a voter, can bring a suit. Sub-clause (2) for setting aside the election of a candidate in which a defeated candidate should be made a party was not in the Municipal Act. One difficulty, however, will arise in the District Board areas where there is one-seat constituency and sometimes there are two-seat constituencies and so there may be five or six candidates. Generally, a suit is instituted against a successful candidate only. Why then other candidates should be made a party? All petitioners may have no grievance against the other candidate—this will only multiply costs and create other difficulties. Sir, I only point out these few difficulties.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, may I reply to the points raised?

Mr. PRESIDENT: You may do so later on.

Rai Sahib JATINDRA NATH SEN: I also support the amendment which has been moved by my honourable friend Khan Bahadur Naziruddin Ahmad and I am glad that he has at this stage at least embodied the proviso which appears in the original Bill-clause.

Now, Sir, it is stated in the Statement of Objects and Reasons that this Bill has been necessitated by reason of certain civil court proceedings which are now pending in connection with the District Board elections at Dacca and Burdwan. But what I beg to submit to the House is that a legislative measure should not be taken for the purpose of stifling proceedings already instituted under the ordinary civil law.

Of course, there may be cases and there are cases when the legislature has got to step in in order to rectify certain defects or situations such as in the case of emergent necessity or in cases which would result in a great deal of trouble or hardship which it would have been difficult to repair. This state of things has been in existence for a very very long time and parties have always enjoyed the right of going to civil courts for redress of their wrongs or supposed wrongs. Taking away that right when cases are pending before a civil court would be most unjustifiable. If these proceedings are left out and are not touched by this Bill, then I have no objection. For the future this should be the rule but no legislation should be enacted which would have the effect of putting a stop to proceedings that are already going on in the civil court. With these words, I beg to support wholeheartedly the amendment moved by my friend.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Government accept the amendment moved by my friend, the Khan Bahadur.

As regards the question put by Mr. Nur Ahmed as to whether Government have changed their policy followed in section 36 of the Bengal Municipal Act, namely, that instead of the word "entitled" the word "qualified" should be used or not, I think "qualified" is a better word when the question whether a person is entitled to be a voter or not, would be an issue in an election petition. That, however, is merely a side-issue but a certain amount of energy will have to be devoted to this question in setting that point first. In that view of the matter, I think the word should be "qualified" instead of "entitled", because if the word "entitled" is used, then it would rope in a very large number of people who might or might not be actually entitled to vote.

Mr. PRESIDENT: The question before the House is that: in clause 3 of the Bill, for the proposed section 18B, the following be substituted, namely:—

Proceedings relating to disputes as to the validity of an election.

"18B. (*1*) If there is any dispute as to the validity of an election of a member of a District Board or a Local Board held under this Act, any person entitled to vote at such election may, within thirty days after the date of the declaration of the result of such election, file a petition before the District Judge of the district within which the election has been held or should have been held, calling in question such election on one or more of the grounds set forth in clauses (*a*) to (*e*) of sub-section (*1*) of section 18D or section 18E.

(*2*) In every petition filed under sub-section (*1*) all the candidates at the election to which the dispute relates shall be made parties.

(*3*) The petitioner shall, at the time of filing the petition under sub-section (*1*), deposit in Court one hundred rupees as security for the costs likely to be incurred by any of the respondents:

Provided that the validity of any election shall not be questioned in any petition under this section—

(*a*) on the ground that the name of any person qualified to vote has been omitted from the electoral roll, or

(*b*) on the ground that the name of any person not qualified to vote has been inserted in the electoral roll."

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 3 of the Bill, in the proposed section 18C after sub-section (*1*), the following new sub-section be inserted, namely:—

"(*1a*) where a petition has been transferred by the district Judge to a subordinate judicial officer under the provisions of sub-section (*1*) for disposal, the District Judge may at any time for reasons to be recorded in writing withdraw such petition to his own file and dispose of it himself, or may re-transfer it to another such subordinate judicial officer for disposal."

Sir, this amendment is necessary to give the District Judge power to transfer and retransfer election petitions. These powers are given in the case of civil and criminal proceedings by the respective Procedure Codes and unless there is a provision like this here, there might be an *impasse*. The subordinate judicial officer, to whom the petition may have been transferred, may be unable to proceed with the case due to transfer or various other causes and unless there is a provision like this empowering the District Judge to transfer and retransfer the cases, serious difficulties may arise. In order to obviate this difficulty, I have proposed this amendment. It removes a *lacuna*.

Mr. PRESIDENT: Amendment moved: that in clause 3 of the Bill, in the proposed section 18C after sub-section (*1*), the following new sub-section be inserted, namely:—

"(*1a*) where a petition has been transferred by the District Judge to a subordinate judicial officer under the provisions of sub-section (*1*) for disposal, the District Judge may at any time for reasons to be recorded in writing withdraw such petition to his own file and dispose of it himself, or may re-transfer it to another such subordinate judicial officer for disposal."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government are prepared to accept this amendment.

Mr. PRESIDENT: The question before the House is that in clause 3 of the Bill, in the proposed section 18C after sub-section (*1*), the following new sub-section be inserted, namely:—

"(*1a*) where a petition has been transferred by the District Judge to a subordinate judicial officer under the provisions of sub-section (*1*) for disposal, the District Judge may at any time for reasons to be recorded in writing withdraw such petition to his own file and dispose of it himself, or may re-transfer it to another such subordinate judicial officer for disposal."

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 3 of the Bill, in sub-section (*2*) of the proposed section 18C, for the words "compel them to give evidence" appearing in lines 2 and 3, the following be substituted, namely:—

"compel them to produce documents or articles in their possession or power and to give evidence."

Sir, this amendment has been suggested in order to bring the provisions into line with other enactments and also to make the text absolutely complete.

Mr. PRESIDENT: Amendment moved: that in clause 3 of the Bill, in sub-section (*2*) of the proposed section 18C, for the words "compel them to give evidence" appearing in lines 2 and 3, the following be substituted, namely:—

"compel them to produce documents or articles in their possession or power and to give evidence."

The question before the House is: that in clause 3 of the Bill, in sub-section (*2*) of the proposed section 18C, for the words "compel them to give evidence" appearing in lines 2 and 3 the following be substituted, namely:—

"compel them to produce documents or articles in their possession or power and to give evidence."

(The amendment was agreed to.)

Khan Sahib ABDUL HAMID CHOWDHURY: I beg to move that in clause 3 of the Bill, in clause (*d*) of sub-section (*1*) of the proposed section 18D, for the words "in the forms required thereby" in line 4, the words "in the use of any form prescribed for an election" be substituted.

Sir, the section as it stands now conveys no meaning or admits of conflicting interpretations. With a view to set at rest all difficulties in matters of petition, I have proposed this amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Government are prepared to accept this amendment.

Mr. PRESIDENT: The question before the House is: that in clause 3 of the Bill, in clause (*d*) of sub-section (*1*) of the proposed section 18D, for the words "in the forms required thereby" in line 4, the words "in the use of any form prescribed for an election" be substituted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 3 of the Bill, in sub-section (*1*) of the proposed section 18D, all the words commencing with "provided that" in line 25 up to the end of the sub-section, be omitted.

This is only a drafting amendment, Sir.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Government accept this amendment.

Mr. PRESIDENT: The question before the House is: that in clause 3 of the Bill, in sub-section (*1*) of the proposed section 18D, all the words commencing with "provided that" in line 25 up to the end of the sub-section, be omitted.

(The amendment was agreed to.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move: that in clause 3 of the Bill, in the proposed section 18D, sub-section (*2*) be omitted.

Sir, my object in moving this amendment is that this sub-section tends to encourage the candidates to follow corrupt practices indirectly. Sub-section (*2*) reads thus—

If after such inquiry, the Judge is of opinion that a returned candidate has been guilty by an agent (other than his election agent) or any other person of any corrupt practice specified in part I of the

Fourth Schedule which does not amount to any form of bribery other than treating as hereinafter explained or to the procuring or abetment of personation, and if the Judge is also of opinion that the candidate has satisfied him that——

(*a*) no corrupt practice was committed at such election by the candidate or his election agent, and the corrupt practices mentioned in the report were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent, and,

(*b*) the corrupt practices mentioned in the said report were of a trivial, unimportant and limited character, and

(*c*) in all other respects the election was free from any corrupt practice on the part of such candidate or any of his agents,

then, the Judge may find that the election of such candidate is not void.

I think, Sir, this is unnecessary. It may be left to the discretion of the Judge to find out whether there was corrupt practice of a trivial nature by some one who is not connected with the candidate himself. I do not understand, Sir, why this is incorporated in this Bill itself. It will have the evil effect of encouraging the candidates to indirectly follow these malpractices. From this point of view, Sir, I think this sub-section should not appear in this Act. So, I moved for its deletion.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I am afraid, I have to oppose this amendment——

Mr. PRESIDENT: In that case, let me place it before the House.

Amendment moved: that in clause 3 of the Bill, in the proposed section 18D, sub-section (2) be omitted.

Yes, Sir Bijoy.

Mr. HUMAYUN KABIR: Would it not be better, Sir, if Government reply last of all after the other honourable members have spoken on this amendment.

Mr. PRESIDENT: Yes, Mr. Kabir.

Mr. HUMAYUN KABIR: Sir, I have very great pleasure in supporting this amendment, and I am glad that my friend has seen the force of criticisms which I made on the occasion when the Bill was first moved for being taken into

consideration. As he has himself pointed out, the proposed sub-section was put in a positive form. It said, "If the candidate has been guilty of malpractices", and then it says, if the connection of any agent cannot be established, then he can go scot-free. In other words, even if the candidate is guilty of such misconduct, though not by his election agent but by some other agent, he would go scot-free. Sir, I would draw the attention of the Government to the fact that here the only term used is election agent.

Now, in any election, to the local bodies or to the legislatures, there is only one election agent, but there are quite a large number of other agents, such as polling agents who are recognised in law and certain facilities are given to them—they are persons who are authorised by the candidates to inspect the polling booths, to supervise the voting and see that they do not suffer injustice or hardship. Such agents are left out, and I think that this is a definite lacuna in this Bill as it is at present drafted. Firstly, as I pointed out a moment ago, the Bill-clause contemplates cases where the candidate actually was guilty of corrupt practice; and secondly, exception is made only in the case of an election agent. The present amendment is an improvement, for it contains no encouragement for dishonesty in the case of certain classes of candidates who may take advantage of gaps in the law. Human nature being what it is, the Bill-clause might encourage some candidates to take advantage of the defect or lacuna in the legislation. Therefore, I think Government will be well-advised to accept the amendment of the Khan Bahadur. His amendment covers partly this defect of the original draft, namely, the question of declaring the election of such candidates as are guilty of malpractice to be void.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I also gave notice of an amendment for deleting this sub-clause (2). Khan Bahadur Saiyed Muazzamuddin Hosain has given reasons for this deletion. I have an additional reason for the deletion. My reason is: that in sub-clause (1), conditions have been laid down under which an election may be set aside. Sub-clause (2) lays down the conditions on which an election will not be set aside. I think sub-clause (1), if properly drafted, would be enough to provide for cases where an election should be set aside and all other possible grounds would necessarily fall short of that standard and need not be specified. Sub-clause (2) is therefore quite unnecessary in a Bill like this. In these circumstances, I think clause (2) would be absolutely redundant. There is the precedent in the Bengal Legislative Council and Assembly Election Rules which have again been copied in the Calcutta Municipal Act. There is, however, nothing like it in the Bengal Municipal Act. These are some of the reasons which should induce us to delete this sub-clause. I will suggest, however, that for the time being this important sub-clause be retained. Sub-clause (1) must be better drafted in order to enable

us safely to get rid of sub-clause (2), and for the time being I would suggest that, in view of the precedents, the amendment moved by Khan Bahadur Saiyed Muazzamuddin Hosain be withdrawn.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose the amendment and my grounds are two-fold. Firstly, in drafting such complicated statutes we must go by certain recognised principles and it is rather risky to introduce new principles without experience. Now, this clause is by no means a new one. I will draw the attention of the House to section 18B of the Local Self-Government Act. I will then draw the attention of the House to section 46 of the Calcutta Municipal Act and I will also draw the attention of the House to the provisions in the Indian Corrupt Practices and Elections Petitions Order, 1936, which is based on Parliamentary Statutes and precedents. So, we have the authority of several statutes behind us and that is why Government thought it necessary to introduce a clause like this in the Bill. Secondly, I will just draw the attention of the House to the provisions of this clause, which runs thus:—

"If after any such inquiry the Judge is of opinion that a returned candidate has been guilty by an agent (other than his election agent) or any other person of any corrupt practice specified in Part I of the Fourth Schedule which does not amount to any form of bribery other than treating as hereinafter explained or to the procuring or abetment of personation, and if the Judge"—and these are very important words—"is also of opinion that the candidate has satisfied him that—

(*a*) no corrupt practice was committed at such election by the candidate or his election agent, and the corrupt practices mentioned in the report were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent, and

(*b*) the corrupt practices mentioned in the said report were of a trivial, un-important and limited character."

and so on and so on.

We do not want to expose the candidates to unnecessary risks. That is the main principle of our Bill.

The number of polling stations are sometimes very large and a candidate has to take the help of persons with whom he is not very intimately acquainted and it is difficult for him to be responsible for the acts of commission and omission of any agent who is not an election agent but merely a friend who volunteers to help him and thereby places himself in the position of an agent. All these facts should be taken into consideration before you actually disqualify a candidate or say that he was guilty of corrupt practices. Sufficient discretion has been

given to the court. The court must be satisfied that the candidate took proper precautions and was satisfied that no corrupt practice was committed by his election agent. I think that in this view of the matter, it is better to retain this clause rather than delete it. If it is deleted, you will then expose the candidate to much greater risks which will not be fair to him. Moreover, as I have said already, in other statutes a similar provision does find a place. In this view of the matter, I hope the honourable member will agree to withdraw his amendment.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Personally, I am strongly in favour of the amendment but in view of what has been stated by the Hon'ble Minister in charge, I beg to withdraw my amendment with the leave of the House.

Mr. PRESIDENT: Is it the pleasure of the House to grant Khan Bahadur Muazzamuddin Hosain permission to withdraw his amendment?

Mr. HUMAYUN KABIR: I object to the motion being withdrawn.

Mr. PRESIDENT: The question before the House is: that in clause 3 of the Bill, in the proposed section 18D, sub-section (2) be omitted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, may I move amendment No. 39A?

Mr. PRESIDENT: 39A has been passed over. I called your name but you did not respond.

Khan Bahadur NAZIRUDDIN AHMAD: May I have your special permission to move it? It is in the other list that is why it escaped my notice.

Mr. PRESIDENT: You cannot move it. But I shall allow some other member to move it.

Mr. MESBAHUDDIN AHMED: Sir, may I move it?

Mr. PRESIDENT: Yes.

Mr. MESBAHUDDIN AHMED: I beg to move that in clause 3 of the Bill, in the proposed section 18D, in sub-section (*2*), for clauses (*a*) and (*b*) the following clause be substituted, namely:—

"(*a*) no corrupt practice was committed at such election by the candidate or his election agent and the corrupt practices which were found by the Judge to have been committed were of a trivial, unimportant and limited character and were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent, and".

Mr. PRESIDENT: Amendment moved: that in clause 3 of the Bill, in the proposed section 18D, in sub-section (*2*), for clauses (*a*) and (*b*) the following clause be substituted, namely:—

"(*a*) no corrupt practice was committed at such election by the candidate or his election agent and the corrupt practices which were found by the Judge to have been committed were of a trivial, unimportant and limited character and were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent, and".

The question before the House is: that in clause 3 of the Bill, in the proposed section 18D, in sub-section (*2*), for clauses (*a*) and (*b*) the following clause be substituted, namely:—

"(*a*) no corrupt practice was committed at such election by the candidate or his election agent and the corrupt practices which were found by the Judge to have been committed were of a trivial, unimportant and limited character and were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent, and".

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move: that in the proposed section 18E in clause 3 of the Bill—

(*a*) for the words, figures and letter "if, in any case to which section 18D does not apply the validity of an election is in dispute between two or more candidates", the following be substituted, namely:—

"If there is any dispute as to the validity of an election by reason of erroneous or wrongful scrutiny and counting of votes given to a candidate and the election is called in question under sub-section (*1*) of section 18B on that ground";

(*b*) sub-section (*2*) be omitted.

Sir, this is proposed to effect certain amount of improvement in the Bill.

Mr. PRESIDENT: Amendment moved: that in the proposed section 18E in clause 3 of the Bill—

(*a*) for the words, figures and letter "If, in any case to which section 18D does not apply the validity of an election is in dispute between two or more candidates", the following be substituted, namely:—

"If there is any dispute as to the validity of an election by reason of erroneous or wrongful scrutiny and counting of votes given to a candidate and the election is called in question under sub-section (*1*) of section 18B on that ground";

(*b*) sub-section (*2*) be omitted.

The question before the House is: that in the proposed section 18E in clause 3 of the Bill—

(*a*) for the words, figures and letter "If, in any case to which section 18D does not apply the validity of an election is in dispute between two or more candidates", the following be substituted, namely:—

"If there is any dispute as to the validity of an election by reason of erroneous or wrongful scrutiny and counting of votes given to a candidate and the election is called in question under sub-section (*1*) of section 18B on that ground";

(*b*) sub-section (*2*) be omitted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that: in clause 3 of the Bill, after the proposed section 18G, the following new section be inserted, namely:—

"18GG. Where a candidate, who has been elected to be a member of a District Board or a Local Board, is declared by the Judge not to have been duly elected, acts done by him in execution of the duties of his office before the time when the decision is certified to the District Board or the Local

Board concerned shall not be invalidated by reason of that declaration and any previous proceedings of the said local authority of which such candidate was a member shall not be deemed to be affected thereby in any respect."

Sir, this provision is more salutary. In case a returned candidate has acted and has taken part in a proceeding and if his election is subsequently set aside, the question may arise what would be the position of the candidate. It is well-known that in the Government of India Act and in other Acts similar provisions have been laid down. In order to bring the present legislation into line with other Acts, I have proposed it. It would safeguard an act done by a person whose election is set aside.

Mr. PRESIDENT: Do you accept it, Sir Bijoy?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir.

Mr. PRESIDENT: The question before the House is: that in clause 3 of the Bill, after the proposed section 18G, the following new section be inserted, namely:—

"18GG. Where a candidate, who has been elected to be a member of a District Board or a Local Board, is declared by the Judge not to have been duly elected, acts done by him in execution of the duties of his office before the time when the decision is certified to the District Board or the Local Board concerned shall not be invalidated by reason of that declaration and any previous proceedings of the said local authority of which such candidate was a member shall not be deemed to be affected thereby in any respect".

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 3 of the Bill, in the proposed section 18F, for the words "confirm the election" occurring at the end, the words "dismiss the petition" be substituted.

Sir, the words "confirm the election" appear in the Bill-clause. The draft is based upon a misconception. If a candidate is declared duly elected, he is fully elected and his election does not require any confirmation. If the election is not set aside, it stands and does not require to be confirmed because the election is valid unless it is set aside. So, the provision that the election should be "confirmed", is absolutely wrong. In these circumstances, Sir, I have submitted the amendment suggesting that the application should be dismissed.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Government are prepared to accept it.

Mr. PRESIDENT: The question before the House is: that in clause 3 of the Bill, in the proposed section 18F, for the words "confirm the election" occurring at the end, the words "dismiss the petition" be substituted.

(The amendment was agreed to.)

The question before the House is: that clause 3, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 4.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 4 of the Bill, after the words and comma "the words", in line 3, the word and comma "brackets", be inserted.

This is only a clerical omission which I have attempted to set right.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government are prepared to accept this.

Mr. PRESIDENT: The question before the House is: that in clause 4 of the Bill, after the words and comma "the words", in line 3, the word and comma "brackets", be inserted.

(The amendment agreed to.)

The question before the House is: that clause 4, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 5.

Mr. MESBAHUDDIN AHMED: Sir, I beg to move: that for clause 5 of the Bill, the following be substituted, namely:—

"5. In section 138 of the said Act—

(*a*) in clause (*a*), as in force in areas under the administration of Union Boards established under the Bengal Village Self-Government Act, 1919, and in areas not under such administration, the words 'and determining the authority who shall decide disputes relating to such elections' shall be omitted; and

(*b*) after clause (*aa*) the following clause shall be inserted, namely:—

'(*aaa*) determining the procedure to be followed by a Judge under section 18C in inquiring into election petitions;'."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government are prepared to accept it.

Mr. PRESIDENT: The question before the House is: that for clause 5 of the Bill, the following be substituted, namely:—

"5. In section 138 of the said Act—

(*a*) in clause (*a*), as in force in areas under the administration of Union Boards established under the Bengal Village Self-Government Act, 1919, and in areas not under such administration, the words 'and determining the authority who shall decide disputes relating to such elections' shall be omitted; and

(*b*) after clause (*aa*) the following clause shall be inserted, namely:—

'(*aaa*) determining the procedure to be followed by a Judge under section 18C in inquiring into election petitions;'."

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clauses 5 as amended, stand part of the Bill.

(The motion was agreed to.)

Clauses 6, 7 and 8.

Mr. PRESIDENT: The question before the House is: that clauses 6, 7 and 8 stand part of the Bill.

(The motion was agreed to.)

Clause 9.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 9 of the Bill, for the words and figures "the Bengal Local Self-Government Act of 1885" in line 2, the words "the said Act" be substituted.

Sir, the Bill begins with a condition but does not end with that condition. So in order to be consistent with the declared intention of the Bill, to stick to the expression "the said Act", I have introduced this amendment.

Mr. PRESIDENT: Amendment moved: that in clause 9 of the Bill, for the words and figures "the Bengal Local Self-Government Act of 1885" in line 2, the words "the said Act" be substituted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 9 of the Bill,—

(*a*) for the word "proceedings" in line 3, the words "suits and proceedings" be substituted, and

(*b*) for the word "proceedings" in line 9, the words "suits or proceedings" be substituted.

Sir, the word "proceedings" is sufficiently elastic, but in order to include suits it is necessary to introduce explicit words. In these circumstances, in order to prevent any ambiguity I have suggested the inclusion of the words "suits or proceedings" which, I hope, would make it comprehensive.

Mr. PRESIDENT: Amendment moved: that in clause 9 of the Bill.—

(*a*) for the word "proceedings" in line 3, the words "suits and proceedings" be substituted, and

(*b*) for the word "proceedings" in line 9, the words "suits or proceedings" be substituted.

Mr. HUMAYUN KABIR: Mr. President, Sir, the Bill-clause 9, as it is drafted, is bad enough and proposes to take within the purview of this new Act proceedings which are already pending before the civil courts.

Now, Sir, we shall perhaps have occasion to discuss the question of giving retrospective effect to this Bill at a later stage, but here I will simply draw the attention of the House to the fact that if we accept Bill-clause 9, as it is proposed in the Government draft or even in the draft which is proposed by my honourable friend Khan Bahadur Naziruddin Ahmad, we shall be laying down a very dangerous principle. Under the existing law, certain rights were conferred on the candidates to the different elections which have taken place at different times, and the abuses if any have already been known for a very long time. My friend Khan Bahadur Naziruddin Ahmad said that it was a necessary measure. Perhaps members from all sections of the House will agree that some amendment of the Act was necessary. But, Sir, there is, I think, something very significant in the hurry with which this particular Bill is sought to be moved through this House. Not only is it sought to be rushed through, but what we had made up our mind to do is going to be wiped out by a single stroke of the pen. We also want to remove all the injustice which has accumulated for many years, ever since the passing of the Bengal Local Self-Government Act. Sir, in the Statement of Objects and Reasons, reference has been

made to the Burdwan and Dacca elections. I believe, Sir, that the elections at Burdwan took place some time ago, perhaps more than a year has elapsed since the election of the Burdwan Local Bodies took place, but the Government did not at that time feel the necessity of bringing in a legislation of this type. As for the election in Chittagong—it is of more recent occurrence. Then, with regard to the elections at Dacca, I can say with confidence that if there is any motive whatsoever for this Bill, it is the motive to control elections which have taken place in Dacca.

I think, Sir, that is the reason why this provision, namely, provision in clause (9), which is retrospective in effect, has been brought forward. My honourable friend Khan Bahadur Naziruddin Ahmad is not content with the proceedings which are at present pending in the courts. In the original draft amendment of which he gave notice, he was not content even with including suits and proceedings but he went further and said that he was including suits, appeals and revisional proceedings. I think this is laying down a very dangerous principle indeed. Where does the process of appeal stop in a case like this? If even an appeal can be re-opened after the passing of a new Act, I think that very dangerous principles are involved. Therefore, the amendments, as I have said at the outset, is bad enough and I think the House will be justified in opposing the giving of retrospective effect to this Bill. This retrospective effect is sought to be provided in Bill-clause 9. According to this clause all cases pending before the courts—and now we are told not only proceedings pending before a court but suits and, if his original amendment had been moved, also appeals that had been already decided—would come within the purview of the Act. In other words, after proceedings had been set in operation, after parties had incurred a great deal of expenditure and after they had proceeded in a certain manner with a certain definite object, the whole matter is to be started *de novo*. And these are not questions where the super-ruling interests of a community demand such application of retrospective effect. If the matter had been one which concerned the vital interests of the people, then I would certainly have been with the Government and said that in such a case the question of prescriptive right or the question of retrospective effect would not arise. If it is necessary in the general interests of a community that past acts have to be remedied, past wrongs from which the community has been suffering have to be redressed, in such cases retrospective effect might be given. If, for instance, the Hon'ble Minister brought forward a Bill for the reduction of rents, or for the redressing of a wrong from which a large proportion of the people were suffering and wanted to give retrospective effect to such a Bill, then we on this side of the House would support the Bill. But the present Bill deals with a matter which is trivial and yet effects vitally the interests of the particular individuals concerned. My point is that for the particular individual who has filed a petition or who

may be fighting an election, this may be very important but to the community in general it is not a very important matter and therefore there is no justification whatever for giving retrospective effect to a Bill of this type only to benefit an individual. I, therefore, regret very much that I have to oppose the amendment moved by my friend Khan Bahadur Naziruddin Ahmad.

Rai Sahib JATINDRA MOHAN SEN: May I speak on clause 9 as a whole?

Mr. PRESIDENT: Do you want to oppose the whole clause?

Rai Sahib JATINDRA MOHAN SEN: Yes, Sir.

Mr. PRESIDENT: Well, both the clause and the amendment are before the House.

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to oppose clause 9 as well as the amendment.

I have already referred to my objection to giving retrospective effect in this Bill to suits and proceedings which are already pending before the civil courts. I have already mentioned that ordinarily retrospective effect should not be given unless there are very grave reasons for doing so. Now, the effect of giving retrospective effect in pending cases would amount to giving the whole weight of Government in support of a party which has already won an election.

I would regret very much that such an attitude should be exhibited by the Government in respect of small matters like the result of elections in certain District Boards. In this connection, with your permission, Sir, I shall place before the House a resolution which had been unanimously adopted there. The District Board of Dacca adopted this resolution unanimously. It runs as follows:—"In view of the fact that when the Dacca District Board election proceedings were started candidates had the right of election disputes decided in the civil court and having regard also to the fact that in certain cases elections have already been called in question, this court is definitely of opinion that it would be unjust and unfair to deprive the candidates of the rights and privileges so long enjoyed under the civil laws by the provisions of the Local Self-Government (Amendment) Bill, 1941, and adding certain new provisions which are calculated to create unnecessary complications."

So, Sir, the District Board concerned unanimously adopted this resolution. The retrospective effect should not be given to smother the rights of the parties which are now litigating in the civil court. That is a bad principle and I am strongly opposed to that principle.

With regard to the amendment which my learned friend Khan Bahadur Fazlruddin Ahmad moved, that also goes still further, as pointed out by my honourable friend Mr. Humayun Kabir, and I endorse the reasons given by him.

Rai MANMATHA NATH BOSE Bahadur: Sir, I rise to oppose the amendment as well as the Bill-clause. It is well known that I have always opposed to giving retrospective effect to any provision in any Act. I have opposed this since I have been here and I shall go on opposing this principle of giving "retrospective effect" so long as I shall be here. I submit, Sir, that this provision is going to be enacted in favour of and to benefit certain individuals. I could understand if the principle of retrospective effect was proposed to be given for the benefit of a certain community or a large number of persons—but nothing of the kind. The Hon'ble Minister who is now in charge of this Bill, in answer to an objection of mine when the Bengal Tenancy Bill was on the anvil, said that it was true that retrospective operation should not be provided in any Bill or Act, but that if any vital interests were concerned that point might be considered. But is there any vital point to be considered here? I submit that the provision here goes to show that certain persons are going to benefit by it—persons who won the election. So, I submit that "retrospective operation" should not find a place in this Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, so far as the principle of retrospective effect is concerned, I generally agree with the previous speakers. But this is not a case of retrospective effect, so to say. I would draw the attention of the House to section 138 of the Local Self-Government Act. Under this section Government at present have the right to appoint an authority for deciding election disputes; but that section, unlike the provisions in the Bengal Municipal Act, does not debar parties from taking suits to the civil court. That is a lacuna in the existing Act and taking advantage of that lacuna many people in the districts referred to in the Statement of Objects and Reasons of the Bill, have taken their cases to the civil court. When my friends speak of giving retrospective effect to a provision, I venture to submit they are not strictly correct.

Sir, now as regards appeals and proceedings. Indeed, if we want to prevent the parties going to civil court, naturally we have got to prevent civil suits being prolonged by appeals and by invoking the revisional jurisdiction of the High Court and other courts. The policy which the Government have in view is: that election disputes should be disposed of without much delay; because if election disputes are allowed to prolong, then the constitution of the local bodies is also deferred and people with a long purse sometimes take advantage of this hiatus in the Act and institute civil suits. Then if defeated, they file an

appeal and then there are the interlocutory matters and by this process they attempt to prolong their life, to delay the reconstitution of the local bodies and thereby shut out the elected representatives of the people from taking their seats on the reconstituted local bodies. So, that is the main object with which this Bill has been introduced. It is not really a proposal to give retrospective effect to the legislation.

Rai Sahib JATINDRA MOHAN SEN: Are you not supporting certain candidates by this legislation?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I know nobody; I do not know who are the candidates and I have not the faintest idea as to whether they are men or women. We are not supporting anybody. We are giving a fair chance to both parties but if we allow the civil suits, whether at the preliminary stage or at the appellate stage or revisional stage, to be carried on, then the dispute remains unsettled and matters are prolonged; and the reconstitution of the local bodies is deferred indefinitely. That is the main object, Sir, why this Bill has been introduced and that object will be frustrated to a very large extent, if the provisions incorporated in clause 9 are not accepted.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I wish to make one observation in respect of clause 9. Sir, we find that the proceedings in the civil courts, etc., will be suspended as soon as this Bill is passed into an Act; but there is nothing mentioned here as to who will bear the cost of the proceedings so far instituted. Is the Government going to pay the parties the costs of the proceedings which have proceeded so far? Perhaps the proceedings have advanced so far that only the judgment is pending. Even at such a time they will suddenly stop and we will have to take them to some other forum. In that case, what will be the position? Who is going to pay the cost? That is the point, Sir.

Rai Sahib JATINDRA MOHAN SEN: Government will bear the cost probably.

Mr. PRESIDENT: The question before the House is: that in clause 9 of the Bill—

(*a*) for the word "proceedings" in line 3 the words "suits and proceedings" be substituted, and

(*b*) for the word "proceedings" in line 9, the words "suits or proceedings" be substituted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 9 of the Bill, after the words "civil court" in lines 6 and 7, the words "or in the High Court" be inserted.

Sir, ordinarily the expression "civil court" should include also the High Court, but the High Court has recently held, although after some amount of hesitation, that the "High Court" is not understood to be included within the ordinary expression "civil court." So, in order to make the position absolutely clear, I have proposed this amendment.

Mr. PRESIDENT: Amendment moved: that in clause 9 of the Bill, after the words "civil court" in lines 6 and 7, the words "or in the High Court" be inserted.

Mr. HUMAYUN KABIR: Sir, if the past amendment of Khan Bahadur Naziruddin Ahmad was objectionable, this I think is doubly so. I think it was perhaps a momentary lack of vigilance on our part which enabled the Government to have this amendment passed without a proper division. Perhaps if we had been a little more vigilant, the amendment might have gone to the vote. However, I do not want to repeat the arguments which I advanced in the case of the last amendment. I would only point out to the House that those arguments have not been met and in fact have been added to by my esteemed friend Khan Bahadur Saiyed Muazzamuddin Hossain. No doubt the Hon'ble Minster in charge of the Bill made an attempt to clarify the position and defend a very indefensible position by saying that it did not take away any rights from the parties to an election dispute. He drew our attention to section 138 of the Local Self-Government Act under which even now the suit may be referred to the District Judge, as proposed in the Bill under consideration; but at the same time he could not entirely overlook the fact that that section 138 also allows the parties to go to a civil court if they so desire and the amendment which is now being moved by my honourable friend, wants to take away this right from those parties and with retrospective effect too. I believe, Sir, that Sir Bijoy Prasad was once a lawyer, and I do not think it is necessary for me to argue to convince him that a right which has once been enjoyed and which is now being taken away with retrospective effect is a curtailment of rights. It will not be correct to say that this right was also partially restricted in the past. In the past, there were two alternatives—the party to an election could either take advantage of the civil court or he might make a petition, as proposed in the present Bill, to the District Judge and proceedings might be instituted in a different way. I do not think that Sir Bijoy Prasad can argue away the fact that in the past two alternative methods were open to a party to an election and in the present Bill one of them is being taken away. If restriction of a right is not the taking away of it, I do not know what the restriction of a right means. The Hon'ble Minister is welcome

to a monopoly of the knowledge of the English language but it cannot be said that restriction is not the taking away of a right. The present amendment wants to include within the purview of clause 9 of the Bill the proceedings before the High Court. In a great majority of cases, I take it that proceedings before the High Court are of a revisional character of cases which have been disposed of in the local courts. The Leader of the House may cite the examples of municipalities and the Calcutta Corporation, and say that there is already a procedure in vogue in these places which is very similar to the procedure which is proposed in the present Bill and therefore it is only with regard to local bodies of the type of District Boards, Local Boards and perhaps Union Boards that the present Bill has been brought forward. Therefore, if an election petition with regard to Union Boards or District Boards or local bodies is pending before the High Court, I do not think my friend can suggest that it is not revisional petition. Therefore, this particular amendment is going even further than what was intended in an earlier clause. And then there is the point, the very relevant point, raised by Khan Bahadur Saiyed Muazzamuddin Hosain with regard to the costs of the proceedings. I also had that in mind and I felt that if the question of retrospective effect was really taken up—as it is proposed to be taken up in the proposed amendment No. 56A—we would have to mention this fact, viz., the cost of the proceedings on both sides. If it be suggested that so far as the cost of proceedings in such election petitions is concerned, this should be shared by the parties—then that I think would be definitely putting the poor party at a disadvantage. The Hon'ble Leader of the House said that one of his objects was to remove the method by which at present a rich party took advantage of his wealth and went to the civil court and in this way stopped the functioning of local bodies. He said that local bodies could not on that account be properly constituted and in this way the working of local bodies was being hampered. But the remedy which the Leader of the House has suggested is, if anything, worse; for, under the proposed amendment, if the costs are to be divided between both sides, we might say that in that case the rich man might be able to pay the cost twice over but what about the poor man? Elections are very expensive luxuries. I may once more be permitted, Sir, to refer to my remarks regarding the Dacca District Board election, which I have no doubt—and I notice this has not been contradicted by the Leader of the House—is the cause of the genesis of this Bill. With regard to this particular election at Dacca, all sorts of election petitions have been filed. I am given to understand that as many as 12 election petitions are even now pending with the different courts in Dacca. In this Dacca District Board election, a certain amount of expenditure has been incurred by the petitioners. In the inordinate hurry to finish the election, sufficient time was not given even to the proper printing of the voters' list and in some cases I am given to understand, the voters'

lists of the previous year were used. When this was pointed out to the District Collector, he suggested that candidates had a remedy in the civil court. The result is that in some cases some candidates did not exert themselves as much as they would otherwise have done, they did not incur as much expenditure as they would otherwise have done, because they were sure that in the existing circumstances and under the existing law, and more particularly in view of the irregularities committed patently and openly during the election, if only an election petition were filed, the election would be set aside and a re-election would be ordered. Because candidates were sure of this position, they did not care to incur more expenditure than was absolutely necessary in order only to keep up the form of the election. I also understand that in certain cases different returning officers were appointed in different areas, and even in the matter of scrutiny of nominations, different types of interpretation were given. In some cases, one type of nomination paper was held valid and in another case nomination papers exactly of the same type were held invalid. When this matter also was brought to the notice of the District Magistrate, he suggested that the remedy was open to the party in the recourse to the civil court. So, Sir, because all these things happened, it is particularly necessary that we should be careful with regard to this particular clause. The question of cost is very important. It may be that a person did not incur expenditure in the election to the extent that he might otherwise have incurred, but nevertheless he incurred some expenditure. The persons who went to the civil court had to incur expenses to some extent and as my friend Khan Bahadur Muazzamuddin Hossain observed, it might be that the proceedings in certain cases have reached the very interesting stage when arguments have been finished on either side and only judgment remains to be delivered. All the evidence has been heard and the only thing that remains is an order or decision of the District Judge or the authority concerned. In such cases, if the petitioners—if these candidates, are asked to restart the whole proceedings over again and bring the whole matter before another court, they will have to incur expenditure again. It was suggested that the parties might bear the cost—it was also suggested by the Coalition Party members, perhaps humorously suggested, that Government might bear the cost—that was suggested rather in a light-hearted manner and not seriously. The parties have already incurred heavy expenditure in bringing witnesses and arranging proceedings, taking out copies, etc.; all these have already involved the petitioners in heavy expenditure and unless some provision is made in this Bill that if the election is set aside the cost should be given, how will a poor petitioner dare to go on with an election petition to the court? He has already incurred some amount of expenditure and has perhaps reached the limit of his resources. If he has to reopen the case, he may not have the expenses to do so. If however Government provide in this Bill

that if he wants money for proceeding with an election case, he will get back the money which he has already spent as cost—if this lacuna is filled up, as Khan Bahadur Saiyed Moazzamuddin Hossain has said—if this lacuna is supplied, the damage of the retrospective effect will be repaired to some extent. But still, the retrospective effect remains. It is sought to be introduced for no reason whatsoever, because it has been suggested more than once that no principles are involved here. So far as the question of the disposal of the election cases expeditiously is concerned, I do not think there is any objection on that score on any side of the House. That is why we did not oppose the motion for consideration of the Bill. We are not opposed also to the clauses of the Bill but we have suggested certain amendments. The general principle of the Bill has been universally accepted, but it is the particular application sought to be made that we cannot endorse, when we remember the peculiar circumstances in which the Bill took its origin, when it is remembered how cavalierly it has been submitted to the scrutiny of the Legislature. If it is properly submitted to the scrutiny of the Legislature, I submit, these difficulties might either be remedied or Government should advance better arguments than they have done as yet as to why retrospective effect should be maintained in this Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I do not propose to repeat the arguments which I have already advanced. But I would like to enlighten the House about one thing, that is that the Dacca election cases are still in a preliminary stage—only the parties have been asked to show cause why injunction should not be granted. So, all the arguments of my friend Mr. Humayun Kabir fall to the ground. No cost has been incurred: on the other hand, we render a very useful service——

Mr. HUMAYUN KABIR: On a point of information, Sir. Were the civil court proceedings started without any court-fee stamps?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Certainly not. I was just going to say about it when my friend interrupted me. If the civil courts are allowed to continue the proceedings, the matter may come up to the High Court. On the other hand, if the matter is brought before the Special Tribunal, it might be disposed much more quickly and with much lesser expense. So that argument of Mr. Humayun Kabir about cost does not hold good and I do not think there is much substance in it.

Mr. PRESIDENT: The question before the House is: that in clause 9 of the Bill, after the words "civil court" in lines 6 and 7, the words "or in the High Court" be inserted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that in clause 9 of the Bill, for the words and figures "the Bengal Local Self-Government Act of 1885" in lines 8 and 9, the words "the said Act" be substituted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government are prepared to accept this amendment.

Mr. PRESIDENT: The question before the House is: that in clause 9 of the Bill, for the words and figures "the Bengal Local Self-Government Act of 1885" in lines 8 and 9, the words "the said Act" be substituted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: I shall move 56A, Sir.

Mr. HUMAYUN KABIR: On a point of order, Sir. I take objection to the moving of 56A, under rule 63, sub-rule (*1*), of the Bengal Legislative Council Procedure Rules. It is quite clearly provided in our rules that amendments shall require at least 10 days' notice and that rule, Sir, you have generally enforced. In certain cases, Sir, we have not raised any objection, because we felt that the amendments of which notice was given at a later stage were amendments which definitely improved the Bill. But in the case of this particular amendment, Sir, we think that this amendment is vicious in principle, for this amendment embodies that very principle of retrospective effect which we have often on the floor of this House objected to and about which the Hon'ble the Leader of the House has not yet been able to give an answer to this House. Why is this extension of retrospective operation suddenly necessary just at this stage? Is it to meet the cases at Dacca? Therefore, Sir, I think that in the case of this amendment, you will not be pleased to relax the rules and will demand that the general Council Procedure Rules be conformed to.

Khan Bahadur NAZIRUDDIN AHMAD: May I speak on this, Sir? My honourable friend is wrong in saying that this amendment is new.

Mr. PRESIDENT: When was notice given?

Khan Bahadur NAZIRUDDIN AHMAD: Sir, the original amendment, I mean No. 56, was given notice of in time and this amendment No. 56A is only a re-draft of amendment No. 56. The notice of the original amendment No. 56 was given in time. 56A is merely a slight re-arrangement of the words of amendment No. 56 without adding anything to or subtracting anything from it.

Mr. PRESIDENT: So far as amendment No. 56 is concerned, that was given notice of in time and this is more or less a verbal alteration. It is at the same time an improvement. Further, the notice about this amendment No. 56A also was given about 3 days before. Under the circumstances, I shall allow the honourable member to move amendment No. 56A.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move: that clause 9 of the Bill be renumbered as sub-clause (*1*) of clause 9 and to the said clause as so renumbered the following new sub-clause be added, namely—

> "(*2*) Where any suit or proceeding relating to disputes in respect of any election of a member of a District Board or of a Local Board is pending on the date of the commencement of this Act either in a civil court or in the High Court or before the authority appointed before such date to decide such disputes under the said Act and cannot be continued by reason of the provisions of sub-section (*1*), a petition calling in question such election may be filed under section 18B of the said Act as substituted by section 3 of this Act within thirty days after the date of commencement of this Act."

Sir, plainly this amendment would give retrospective effect to pending cases. The provision has been objected to in this House but, I believe, Sir, the objection is due to certain misconceptions. If we once admit that the procedure which now obtains for setting aside an election under the Local Self-Government Act is vicious, if we think that the grounds on which suits are sustainable are mischievous, if we think that to allow parties to institute civil suits on such grounds and to drag on the proceedings for years together so as to allow all existing Boards to function by artificially prolonging their lives in this manner without the least moral or legal justification: if we once concede this, then there is an end of the whole case against retrospective operation. If we agree that the vicious system should go, the question is whether we should stop short and limit our operations to future suits and should not touch the existing cases. If we decide to strike at future cases alone and if we do not touch the existing cases, then it would unduly prolong the lives of some existing District Boards without any justification. Do we or do we not want to prevent that? If you agree that the present office-bearers of District Boards should not be allowed to remain longer than the statutory period, then there is no reason why we should not proceed a little more logically and strike at all dilatory tactics through pending cases. If you do not do that, cases from the Munsif's court will go to the District Judge's court, and thereafter to the High Court, and may thereafter to the Federal Court and possibly

to the Privy Council. There will be no end of the dilatory tactics. Sir, yesterday it was said that the parties have been enjoying this system for a long time. I quite agree, it is quite an enjoyment on the part of the existing members of District Boards to have suits filed through bogus persons and thereby to continue to enjoy the privileges of office indefinitely. Litigations in such cases are luxury litigations. We must strike at such luxury litigations.

So, I submit that the amendment should be accepted. With regard to its location in clause 9, I have already submitted that it was already a part of clause 3. Clause 3 substitutes a new section to the main Act, but proviso (*1*) of the Bill-clause dealt with the present matter and I thought that it was not advisable to introduce this provision in the permanent Act. So it was removed from that place and has been reinserted with a slight change. This is, Sir, the sum-total of the changes effected. The Bill starts with the principle that the existing cases should be dealt with as well as the future cases. In these circumstances, I believe there is nothing wrong in principle in accepting the amendment. If justice is sought to be given to the cases in future, there is no reason why justice should be denied to the persons who are at present struggling in civil courts.

In these circumstances, I submit that the amendment should be accepted.

Mr. PRESIDENT: Amendment moved: that clause 9 of the Bill be renumbered as sub-clause (*1*) of clause 9 and to the said clause as so renumbered the following new sub-clause be added, namely:—

> "(*2*) Where any suit or proceeding relating to disputes in respect of any election of a member of a District Board or of a Local Board is pending on the date of the commencement of this Act either in a civil court or in the High Court or before the authority appointed before such date to decide such disputes under the said Act and cannot be continued by reason of the provisions of sub-section (*1*), a petition calling in question such election may be filed under section 18B of the said Act as substituted by section 3 of this Act within thirty days after the date of commencement of this Act."

Will there be many speakers on this amendment?

Mr. HUMAYUN KABIR: Sir, I want to speak on this amendment.

Mr. PRESIDENT: Then it will not be possible to finish this amendment to-day, for Sir Bijoy Prasad will now move the Special Motion.

Personnel of the Public Accounts Committee of the Council.

Before I call Sir Bijoy Prosad to move his motion, I may announce that in accordance with the resolution passed by the Council on the 31st March, 1941, recommending the appointment of a Public Accounts Committee for the Bengal Legislative Council, I nominate the following members to be members of the said Committee for the year 1941-42:—

The Hon'ble the Finance Minister, as *ex-officio* Chairman,

(1) Khan Bahadur Ataur Rahman,

(2) Khan Bahadur Rezzaqul Haider Chowdhury,

(3) Maulvi Abul Quasem,

(4) Khan Sahib Abdul Hamid Chowdhury,

(5) Mr. Lalit Chandra Das,

(6) Mr. Sachindra Narayan Sanyal,

(7) Mr. R. W. N. Ferguson, and

(8) Rai Sahib Jatindra Mohan Sen.

Special Motion regarding Indian Soldiers' gallantry in capturing Karen and Harrar.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, it is my privilege to move the following Special Motion with your permission:—

This Council is of opinion that an Address be presented to His Excellency the Governor of Bengal through the Hon'ble the President of the Bengal Legislative Council that a Message of its sincerest rejoicings may be conveyed through His Excellency the Commander-in-Chief, to His Excellency Sir Archibald Wavell, Commander-in-Chief of His Majesty's Imperial Forces in the Near East at the capture of Karen and Harrar and that this Council further conveys its warmest congratulations to the Indian Forces on the conspicuously gallant part played by them in bringing about these successes.

Sir, I need say only a very few words in commending this motion to the acceptance of the House. The whole of the British Empire to-day rejoices at the victory which has been achieved by British arms in the Near East. Sir, this, I am sure, is the beginning of the end and of the victory of democracy over autocracy. We, Indians, had never for a moment any misgivings about the ultimate success of Great Britain in this struggle and it is a matter of sincere congratulation to us that Indian soldiers have taken a conspicuous part in this struggle and have thereby contributed to this victory. Sir, the future of India will depend very much on the success of Great Britain in this war. Those

of us who are hoping that on the termination of the hostilities India will be elevated to the position of a Self-governing Dominion, do feel that the future of India depends entirely on the success of British arms. As such we feel grateful to those who have contributed to this victory and we offer our sincerest congratulations to them through His Excellency Sir Archibald Wavell, Commander-in-Chief of His Majesty's Forces in the Near East. Not only have the Indian soldiers displayed great courage and bravery, but their British compatriots also have undergone considerable sacrifices and have displayed equal courage in achieving this success. I would request the House to accept my motion and offer its sincerest congratulations to the Indian soldiers for their bravery in the Near East.

..

Mr. PRESIDENT: Motion moved: This Council is of opinion that an Address be presented to His Excellency the Governor of Bengal through the Hon'ble the President of the Bengal Legislative Council that a Message of its sincerest rejoicings may be conveyed through His Excellency the Commander-in-Chief, to His Excellency Sir Archibald Wavell, Commander-in-Chief of His Majesty's Forces in the Near East at the capture of Karen and Harrar and that this Council further conveys its warmest congratulations to the Indian soldiers on the conspicuously gallant part played by them in bringing about these successes.

Mr. HUMAYUN KABIR: Sir, I am sure that members on all sides of the House are at one in congratulating the Indian soliders on the bravery and heroism which they have shown in the Near East African campaign. I am sure that all the peoples desire that after the terrible conflict which is going on all over the world to-day, there will be a real victory of democracy, of which the Hon'ble Leader of the House spoke; and if this happens, it will be a matter of great rejoicing to all. But our congratulations now cannot be unmitigated and unqualified till we know what is the purpose of this victory in Abyssinia. Are the victories at Karen and Harrar going to bring freedom to Abyssinia, or will they bring this unfortunate country into that peculiar evolution of political history known as the British Commonwealth of Natoins? If Karen and Harrar are really liberated, and if Abyssinians get back their possessions and their liberty which they lost very largely through the hesitation and connivance of England herself and other European Powers, that will be a matter of genuine happiness to all non-European communities of the world. If this victory be a harbinger of the restoration of independence to the Abyssinians, and if it is really a battle for the cause of democracy, then, Sir, it is a matter of congratulation for all sections of the House. But if it is otherwise, and if Abyssinia is reconquered only to become a member of the British

Commonwealth of Nations, then I do not think that the remarks which the Leader of the House has made are justified. As yet we do not find any evidence that this is a battle for democracy.

Sir, when this matter was debated at length on an earlier occasion, we had occasion to express our point of view. On that occasion, Sir, we had also the opportunity of pointing out that the then Premier of England was changing his attitude with regard to the war aims and peace aims of the British Government frequently. The culmination of that is evident in the recent speech of Lord Halifax in Washington. He said that the war aims and peace aims of the Allies was to win the war. Nothing else could be stated definitely at the present. The winning of the war cannot certainly be a peace aim. The British Government perhaps think that if they declare their war aims and peace aims now, they might not get that amount of support, which they are getting now, even in England itself. In England, there is a large section of people who are against the policy of taking away the independence of other countries. In order to maintain peace and contentment, independence of other nations must be respected. Then, again, a large volume of opinion has been growing in England which demands that there should be a thorough overhauling of the relations that now exist between the Dominions and the British Empire all over the world. There should be a thorough reconstitution of the old British Empire till it disappears and in its place emerges a real Commonwealth of Nations, which in becoming Commonwealth will cease to be British.

On a previous occasion, Sir, I said that the expression "British Commonwealth of Nations" is a contradiction in terms. If it is a Commonwealth of Nations, then it is not British. If it is British, then it is not a Commonwealth of Nations. Therefore, if the present war which is being fought ends in victory for the oppressed nations of the world, that would be a glorious victory; but we cannot be sure as yet that this is what England is fighting for. Our congratulations for this victory at Karen and Harrar cannot be unconditional till we know the war aims and peace aims of England. We admire the bravery of the Indian soldiers and others who are taking part in this struggle but bravery is common to both the combatants. Both England and Germany are fighting for their life and nobody questions their bravery. Nor can one question their sincerity and devotion to what they regard as their ideals. But till we know that Egypt is really going to be liberated, till we know that India is going to be a free country, till we know that domination by one country over another will cease as a result of this war, it is premature for us to express our unqualified congratulations for the victory in Karen and Harrar.

Mr. J. B. ROSS: Mr. President, Sir, I desire to associate the European Party in this House wholeheartedly with the Special Motion proposed by the Hon'ble the Leader of the House. I would like to take

this opportunity to express my great regret at the speech just delivered by my friend Mr. Kabir. It could, I think, be correctly described as a street-corner harangue which is completely at variance, in my opinion, with the wording of the Motion before the House and has no direct bearing thereon. So far as the war aims of the British are concerned, the aim that we are after at the moment is to beat the Italians out of Africa and out of Abyssinia and it is a matter of considerable gratification to me that we have been associated with the gallant Indian troops in bringing that about. To talk of anything else in regard to the war aims just now is merely to beg the question and merely to side-track the effect of this Motion. The resolution is one of congratulation for the victorious effort which has been put forth by General Wavell and the troops under his command and also of special felicitation at the fact that Indian troops were associated with the army in these operations. I myself, Sir, have worked with Indian troops during the last War and I can say with absolute confidence that you will not get a finer soldier anywhere. We, the Britishers, are proud to associate ourselves with Indian troops wherever the British army has to campaign. With these few words, Sir, I very strongly support the Motion before the House.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, I beg to associate myself with what has been said by the Hon'ble the Leader of the House. I do not like to question the aims and objects of the present War. The present occasion is not quite appropriate for it. But what strikes me is that the British have won a victory and that it is due to the bravery of Indian troops. This fact in itself is sufficient for us to rejoice over. I, for one, am disposed to regard this achievement as the forerunner of ultimate victory against Nazi barbarism. It is a matter for pride not only to us in Bengal but to the whole of India that the Indian troops have contributed so much towards this victory. The Leader of the European Group, Mr. Ross, has already mentioned from his personal experience that during the last war the Indian soldiers can work and will work creditably for the Empire and for the King. We offer our felicitations to them on this achievement of victory over the Italians in Africa.

Mr. NUR AHMED: Sir, I think it is a matter of great pride to me to take part in this debate. Really it is a matter of great pride and gratification to every Indian that Indian soldiers have shown their bravery in the actual battle. Sir, about us, the Indians, who lost their independence about 200 years ago, it has been said that the Indians are cowards. Here an opportunity was given to them and they have shown to the world their bravery and self-sacrifice which they would continue to maintain if India were to attain Independence. Sir, it is the condition-precedent of any great Nation that they should prepare

themselves to defend their liberty and their independence. So, I think by this bravery, by this gallantry, by their courage, by their sacrifice on the actual battle field and in the great battle which is raging in Europe, our countrymen have proved their real mettle. It is unfortunate that in the discussion of this innocuous motion some controversial matters should have been raised. From the circumstances around us, we can say that the Britishers are fighting for the sake of a democracy. As I said the other day, we should not judge what is going on in the minds of the Britishers, but we expect that it is democracy for which they are fighting now and that democracy will be given to the Indians also after the end of the war. We are living on that expectation that India will be assigned her rightful place in the Comity of Nations as a free and independent nation. I really feel proud to associate myself with this motion and I support it wholeheartedly.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I also deem it a great honour to associate myself with this motion. It expresses our gratitude and our pleasure at what has been done in these theatres of war by the Indian soldiers. I do not see how on a motion like this, Mr. Humayun Kabir can possibly take a pessimistic view of things! I heard his speech with some amount of regret. The only question before us is: whether we are really gratified at these victories. I for myself can say without fear of contradiction that I am absolutely happy, I am thoroughly pleased at what the Indian soldiers have done in the last war and are doing in the present war. In the discussion on this motion the question as to the future of the conquered lands is not relevant. There is also no question that England is fighting for democracy. I submit with great respect that though England is fighting for her own existence, there could be no question that she is also fighting for democracy. The fact that England is fighting for democracy has been recognised by all, even by Mr. Roosevelt and the people of the United States. England, I repeat, is fighting for her own existence but also for the cause of democracy In these circumstances, the view-point from which Mr. Humayun Kabir has criticized the Motion before the House, I submit, should be regretted.

Now, the Motion is a straightforward and a simple one and there should be no note of a pessimistic nature to be attached to this. I gladly associate myself with the Motion and fully support it with all the force that I can command.

Begum HAMIDA MOMIN: Mr. President, Sir, as a representative of the women of Bengal in this House, I deem it a great honour to associate myself wholeheartedly with the Special Motion moved by the Leader of the House. Sir, it is a matter of pride to us and it will be

a matter of pride for us always to remember that our men have taken an active part and a glorious part in the grim struggle that Britain is fighting for so many months with such exemplary courage and fortitude. We will treasure in our hearts the remarks of Mr. Ross who said just now that during the last Great War he fought side by side with the Indian soldiers and he does not hesitate to say that the Indian soldiers were in no way inferior to the soldiers of other countries that fought for His Majesty. Sir, this will be a matter of pride to every woman in Bengal and they will be proud to know that India's children are not looked down upon as a non-martial race any longer.

Khan Sahib ABDUL HAMID CHOWDHURY: Mr. President, Sir, at this stage of the debate, I have very little to add to what has fallen from the lips of the previous speakers in their expression of felicitations on the magnificent victory won by the British arms at Karen and Harrar with the help of the Indian troops. The whole country is rejoicing at the capture of Karen and Harran and congratulating the Indian troops on the gallant part played by them in bringing about these successes. I am in full agreement with Mr. Ross in disapproving the speech of our eminent friend Professor Kabir who expresses doubt about the sincerity of the war aims of Britain. I feel constrained to observe that to raise the question of war aims in connection with this resolution is virtually an attempt to sidetrack the real issue before us. Sir, when the question of contragulation on the display of heroism and bravery on the part of the Indian soldiers is before us, I cannot understand how the question of war aims and peace aims should come in at all. Nobody can question the sincerety of Britain's war aims. It is really a matter of great pride to us, Indians, that our soldiers have played such a gallant part in achieving this victory. By their achievements they have won the admiration of the world and by dealing effective and decisive blows at the enemy in the Near East, they have added a new chapter to the military history of India. Everyone is paying glowing tributes to the gallantry and efficiency of the Indian soldiers. So long there was the impression in some quarters that Indian soldiers cannot stand in comparison with other soldiers but it has been found that some of the fiercest battles in the Middle East, the British and Indian units were engaged and triumphed side by side. No praise is too high for the brilliant success achieved during the operation at Karen and Harrar under most difficult conditions of climate. The battle of Karen demanded of Indian troops, who had already earned high appreciation for their achievements at Sidi Barrani and other places, even higher soldierly qualities and this has added a further and more glorious page to their record. In fact, the Indian troops by their marvellous display of gallantry and efficiency at Karen have eclipsed even their own deeds at Sidi Barrani. With these few words, Sir, I fully associate myself with the previous speakers offering warm

congratulations on the magnificent achievement of the Indian troops and lend my wholehearted support to the motion so ably moved by the Hon'ble Leader of the House.

Rai Sahib JATINDRA MOHAN SEN: Sir, our Leader has associated himself on behalf of this party with the motion and I also beg to associate myself with the motion moved by the Leader of the House. But I want to say a few words just to observe that the speech of my honourable friend Mr. Humayun Kabir seems to have been misunderstood ("No, No; it has been perfectly understood"—from European benches). Sir, what, to my mind, Mr. Kabir wanted to say is that if the Indian soldiers had fought as free Indians and if we as members of this House were in a position to give our support to this motion as free partners of the British Commonwealth of Nations, then our congratulations would have been more complete and more sincere.

Sir, our sincerity would have been really more complete and we would have been in a position to give our support to this resolution more wholeheartedly if we had been free members of the British Commonwealth of Nations and if we had been free citizens of free India. Sir, in order to give expression to this view, Mr. Humayun Kabir had merely referred to war aims and peace aims and all that. I do not believe that a person of the position of Mr. Humayun Kabir would damp this motion with half-hearted support. ("He has damned the resolution"—from the European benches.) I join issue with those who say that Mr. Humayun Kabir damned the resolution. He had been educated in England: he has got European culture (Mr. J. B. Ross: He has got Moscow culture.) and I cannot believe that a person of his education and culture would not give wholehearted support to this motion.

Mr. PRESIDENT: The question before the House is: that this Council is of opinion that an address be presented to His Excellency the Governor of Bengal through the Hon'ble President of the Bengal Legislative Council that a message of sincerest rejoicings may be conveyed through His Excellency the Commander-in-Chief of His Majesty's Imperial Force in the Near East at the capture of Harrar and Karen and that this Council further conveys its warmest congratulation to the Indian soldiers for the conspicuous gallant part played by them in bringing about the success.

(The motion was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I find that the business of the House has not yet been finished. The Local Self-Government (Amendment) Bill will take a few hours more. We have already got the Prorogation Order issued by His Excellency and I

understand it is in your hands. May I suggest therefore that we re-assemble to-night after 8 o'clock, so that setps may be taken in the meantime to get the Prorogation Order of His Excellency withdrawn.

Mr. PRESIDENT: There is some constitutional difficulty. As the Leader of the House has explained, the order of prorogation will have to be recalled by His Excellency in view of the fact that the business of the House still remains unfinished. I think the House should reassamble to-night at 8-30 p.m. just to give facility to His Excellency to recall the order of prorogation, so that the Chair may adjourn the House.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: We may re-assemble at 8-30 p.m. to-night not for transacting the ordinary business of the House, but for announcing the cancellation of the Prorogation Order of His Excellency and then to adjourn the House till to-morrow.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Do I understand, Sir, that there would be no discussion then?

Mr. PRESIDENT: No.

Order, order. The Council stands adjourned till 8-30 p.m. to-day.

The House met again at 8-30 p.m.

Mr. PRESIDENT: His Excellency the Governor has been pleased to recall his order about prorogation on the 1st April, 1941, of the present Session of the Council. The House will meet to-morrow for completion of the business that was on to-day's Order Paper.

The Council now stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 2nd April, 1941.

Members absent.

The following members were absent from the meeting held on the 1st April, 1941:—

(1) Mr. Kader Baksh.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Mr. Shrish Chandra Chakraverti.
(4) Mr. Hamidul Huq Chowdhury.
(5) Mr. Narendra Chandra Datta.
(6) Mr. Kamini Kumar Dutta.
(7) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(8) Mr. R. W. N. Ferguson.
(9) Mr. Mohamed Hossain.
(10) Khan Bahadur Syed Muhammad Ghaziul Huq.
(11) Khan Bahadur M. Abdul Karim.
(12) Maulana Muhammad Akram Khan.
(13) Mr. Naresh Nath Mookerjee.
(14) Dr. Radha Kumud Mookharji.
(15) Mr. Ranajit Pal Chowdhury.
(16) Khan Bahadur Mukhlesur Rahaman.
(17) Dr. K. S. Ray.
(18) Khan Bahadur M. Shamsuzzoha.

B. G. Press—1941-42—2398A—260.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 2nd April, 1941, at 2-15 p.m., being the twenty-second day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Appointments to the Bengal Civil Service.

68. Rai Bahadur BROJENDRA MOHAN MAITRA (on behalf of Mr. Lalit Chandra Das): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether the communal ratio in appointments to the Bengal Civil Service is 50:50, and did the appointments made in 1940-41 to that service bear out this ratio?

(*b*) Is it a fact that in January last 20 Sub-Deputy Collectors have been recruited on the result of the competitive examination, but out of the said number 13 are Muslims and 7 non-Muslims?

(*c*) Is it also a fact that in February last 5 have been promoted to the rank of Sub-Deputy Collectors, of whom 2 are Muslims and 3 non-Muslims?

(*d*) Is it a fact that as a result of the appointments referred to in parts (*b*) and (*c*) above, 15 out of the total appointments of 25 are Muslims and 10 are non-Muslims? Do these figures work out a ratio of 60:40? Will Government be pleased to state whether this ratio is in accordance with the communal ratio to Bengal Civil Service appointments fixed by Government at 50:50?

(*e*) Is it also a fact that out of 6 appointments made in the ranks of the Deputy Collectors this year (3 by promotion and 3 by results of examination), only 2 appointments have gone to non-Muslims resulting in a ratio 67:33? If so, what are the reasons for going beyond the fixed quota?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Khwaja Sir Nazimuddin): (*a*) to (*d*) The honourable member is requested to refer to Press Note, dated the 21st March, 1941. A copy is placed on the Table.

(e) As explained in this Press Note, of the 3 appointments made by direct recruitment, 2 were of Muslims. Of the 3 appointments made by promotion, to which considerations of communal percentages do not apply, 2 were also of Muslims.

Statement referred to in reply to question No. 68.

With the compliments of the Director of Public Information, Bengal.

PRESS NOTE, DATED CALCUTTA, THE 21ST MARCH, 1941.

Criticisms have appeared in the Press relating to the application of communal ratio to the appointments made in the Bengal Civil Service and the Bengal Junior Civil Service in 1940-41. The following facts are published for the information of the public:—

It was decided by Government that 3 appointments to the Bengal Civil Service (Executive) and 20 to the Bengal Junior Civil Service would be made on the results of the competitive examination held in February, 1940.

Bengal Civil Service (Executive).

Under rule 4 (*1*) of the Bengal Services Communal Ratio Rules, the appointments were to be distributed between Muslims and non-Muslims in equal proportions, that is, each community was entitled to 1·5 appointments.

Rule 3 (*2*) of those rules, however, provides that where fractions of one-half occur, the benefit should be given alternatively to Muslims and non-Muslims. Accordingly 2 of the 3 appointments went to Muslims. It may be added that rotation is determined by the strength of the existing cadre.

Bengal Junior Civil Service.

It may be recalled in this connection that in 1939 there were 42 vacancies to be filled by direct recruitment and 12 by promotion to the Bengal Junior Civil Service. Of the 12 promotees, however, 10 were non-Muslims and 2 were Muslims. According to the proviso to sub-rule (*1*) of rule 4 of the Communal Ratio Rules, the Muslim share in direct recruitment had to be increased by 2 to counterbalance the deficiency in promotion. Thus the Muslim share in direct recruitment came to be 23. Of these 25 vacancies, 17 were filled and 6 were kept reserved. It may, however, be mentioned that the Hon'ble Home Minister, in reply to an Assembly question on the 29th February, 1940,

stated that the Bengal Civil Service Examination of 1939 was not conducted in accordance with the approved rules and procedure and in consequence, the required number of Muslim candidates could not be appointed to the Bengal Junior Civil Service on the result of that examination. In order, however, that the community might not be penalised for no fault of theirs, it was decided then as announced by the Hon'ble the Home Minister in the Assembly, to reserve 6 appointments in the Bengal Junior Civil Service for Muslims to be made on the result of the examination held in the year 1940. It was for this reason that 6 of this year's vacancies were allotted to the Muslims and the remaining 14 were distributed amongst the communities in accordance with the Communal Ratio Rules.

Communal percentages do not apply to promotions from one service to another, and the sole consideration in making promotion is merit with due regard to seniority of service.

In the year 1940, 3 Sub-Deputy Collectors were promoted to the Bengal Civil Service (Executive) of whom 2 were Muslims and 1 a non-Muslim; 5 officers were promoted from the lower ranks to the Bengal Junior Civil Service of whom 2 were Muslims and 3 non-Muslims. These promotions were made in accordance with the recommendations of the Public Service Commission.

It will appear from these facts that taking the appointments made in 1939 and 1940 together, the Communal Ratio Rules have been strictly observed.

Notice of Motion for consideration of the Bengal Agricultural Debtors (Second Amendment) Bill, 1941.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I beg your permission, Sir, to inform the House that in pursuance of the notice that I gave on the 14th February, 1941, that the Bengal Agricultural Debtors (Second Amendment) Bill, 1941, be taken up for consideration by the House and after consideration passed, I would like to move the motion for the consideration of the Bill to-morrow, if it suits your pleasure.

The Bengal Local Self-Government (Amendment) Bill, 1941.

Mr. PRESIDENT: The House will now resume further consideration of the Bengal Local Self-Government (Amendment) Bill, 1941.

The House was discussing yesterday the following amendment moved by Khan Bahadur Naziruddin Ahmad: that clause 9 of the Bill be

renumbered as sub-clause (*1*) of clause 9 and to the said clause as so renumbered the following be added, namely:—

"(*2*) Where any suit or proceeding relating to disputes in respect of any election of a member of a District Board or of a Local Board is pending on the date of the commencement of this Act either in a Civil Court or in the High Court or before the authority appointed before such date to decide such disputes under the said Act and cannot be continued by reason of the provisions of sub-section (*1*), a petition calling in question such election may be filed under section 18B of the said Act as substituted by section 3 of this Act within thirty days after the date of commencement of this Act."

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, so far as the object of the Bill is concerned, it is universally accepted as desirable. But, Sir, clause 9 is the most objectionable of all its provisions. The House has accepted every clause upto clause 8 so far, but, I think this clause is the stumbling-block. The Honourable Leader of the House has said that so far as the pending cases in the Dacca courts are concerned, those cases are in the preliminary stage and only petitions have been filed and written statements called for. On that ground the stopping of proceedings after the passing of this Bill may perhaps be acquiesced in to some extent. We do not approve of the principle of giving any retrospective effect to any Bill, but in the present case we might agree only in view of the statement of the Leader of the House that the cases pending in the Dacca courts are still in an infant stage. If that view be accepted, then much of the time and money spent on litigation may be avoided; otherwise the parties will go from the Munsif's Court to the Judges' Court and then to the High Court and this will involve waste of more time and more money. At the same time, owing to such election disputes, the constitution of the Board will be delayed much longer. So far so good: but what about the cases pending in the High Court? Those cases have had to pass through different stages.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I may inform the Raja Bahadur that no cases are pending before the High Court.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: If there is no case pending in the High Court, then there is no need to include the words "High Court" in the text of this clause. The words "civil courts" are sufficient for the purpose. In the original Bill also there was no provision for including the "High Court": only civil courts were mentioned therein. It is only in this amending Bill that we find the words "High Court" included. So, it is better not to bring in the High Court.

Another point that I want to lay stress on is that it is not desirable to give the provisions of this clause a retrospective effect. By giving retrospective effect, you will create legal difficulties. The parties have acted according to the provisions of law so far; they have acted under the law in the expectation that justice would be done. Now, Sir, if they are told that the action of these parties, taken legally, is *ultra vires*, I think the parties will suffer very much.

Sir, Khan Bahadur Saiyed Muazzamuddin Hosain has raised the question about the cost which the parties have so far incurred in filing the suits. In these suits they have spent a lot of money, and the question naturally arises as to who will bear these costs, if all on a sudden these suits are taken away to another court? With these words, Sir, I oppose the motion.

Mr. HUMAYUN KABIR: Sir, the amendment which has been moved by my honourable friend Khan Bahadur Naziruddin Ahmad seeks to remedy a wrong after having committed the wrong. I admit that the amendment which he has placed before this House is necessary if you give retrospective effect to this Bill. His amendment seeks to provide that where cases cease on account of this Bill's operation, 30 days would be given to the party to make a fresh application to the authority which would be constituted under the proposed Act. In this way, his amendment is trying to give the people a chance to continue with the case which would otherwise lapse on account of the enactment of the Bill. To that extent, it has filled a lacuna in the Bill as drafted at present. But, nevertheless, I am reminded of the story that you drown a person and after drowning him, you resort to artificial respiration in order to bring him back to life. If the Bill be not given retrospective effect at all, then neither this amendment nor Bill-clause 9 is necessary. If Bill-clause 9 is accepted, all proceedings and suits which are now pending in any court will automatically cease, and therefore in order to safeguard the interests of the parties affected thereby, this amendment No. 56A has been brought forward by Khan Bahadur Naziruddin Ahmad. In this connection, he has used some arguments to justify the use of the principle of retrospective effect with respect to this Bill. The argument which he used is that if persons are dying of cholera and if you introduce any measures which are going to save them from cholera in future, are you going to apply your measures only to the future cases, or will you also try to safeguard the health of those who have already been affected by cholera? I think, Sir, that my honourable friend did not give us the proper analogy. If we have to use any analogy at all, I would suggest that the analogy should not be the analogy of cholera, because that is a violent disease. It is a violent disease which suddenly breaks out and either disposes of the person immediately or allows him to survive. One way or the other,

the decision is arrived at very quickly. If an analogy is to hold at all, I would suggest that the analogy is to be found in opium. I think, Sir, I am to some extent justified in drawing an analogy with opium, specially when I remember the past practice of this very Government. If opium is administered, very often the patient is not aware that his troubles are due to opium. The effects of the slow poison are felt at a very much later stage. Similarly, the uniform policy of this Government has been to slow up the process of local bodies, to retard the constitution of local bodies—whether they be District Boards or Municipalities—by delaying nominations, sometimes inordinately. Therefore, Sir, if any analogy be used, then the analogy should be that of opium, and I think my honourable friend knows very well that for one who is an opium addict, the results are sometimes disastrous, if suddenly his supply of opium is stopped.

Khan Bahadur NAZIRUDDIN AHMAD: I have no personal experience.

Mr. HUMAYUN KABIR: I do not know that, but belonging to the party of a Government which has generally contributed to the increase of excise revenue of this province, perhaps I might be pardoned if I assume that he has some knowledge of the process of opium and the effects it has on the human system. However, Sir, that is neither here nor there. The point I was arguing is that in the case of some evils, you cannot stop it immediately, because the effects of sudden remedy are more deleterious than the disease itself. Therefore, Sir, the arguments which have been advanced are fallacious. On the one hand, it is not true to say—as he has been suggesting—that it will benefit those who have already suffered, as in the case of a cholera patient. The analogy, Sir, is with opium and not with cholera, and here we have to go slowly. Therefore, if this Bill is to be passed at all, I mean the two amendments, let us ensure that in future there would be no room for opium poisoning, or for the violent administration of opium to the different local bodies and the spread of these diseases of opium by the continual delay which Government introduce in matters of nominations which are made from time to time. I think, Sir, I can press the analogy a little further. Opium, as will be universally admitted, is definitely harmful for the human organism and similarly, Sir, the principle of nomination has proved definitely harmful to the local bodies. In any case, persons who are introduced suddenly into a local body by the principle of nomination are in the same relation to it as opium stands to the human organism. Among the persons who receive Government nominations, there are persons who sometimes have been discarded in general elections: sometimes there are persons against whom there is a strong public opinion not only in one particular locality but in all

places in the area concerned. Therefore, Sir, the analogy put forward by my friend Khan Bahadur Naziruddin Ahmad by referring to the cases of cholera will not hold water for a moment.

And my second point was that it is a case of resorting to artificial respiration after you have deliberately and voluntarily put a patient under water and suffocated him. If you do not apply the principle of retrospective application, these difficulties do not arise. I am at one with him that if you apply the principle of retrospective application, then his amendment is necessary. But then, Sir, one evil cannot justify another evil. This is an evil and this amendment seeks to remedy a former evil which is sought to be introduced by Bill-clause 9. Therefore, Sir, I would submit that since he himself realizes the evils of this proposed clause and since he wants to remedy it by bringing in new amendments into the body of the Bill, he will go a step further and throw overboard both his own amendment as well as Bill-clause 9.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, in connection with this amendment, I want to make one or two observations. My honourable friend Mr. Kabir who has just spoken has made an apparent mistake in thinking that this is a new provision which Khan Bahadur Naziruddin Ahmad is trying to incorporate. If he will kindly turn to the proviso to section 18, he will find (Mr. HUMAYUN KABIR: I know that.) that the provision for 30 days is already there. It has only been transferred from one place to another. Of course, personallly I am not very much in favour of the jurisdiction being extended to include also the High Court. But that is another matter. Here, I am only concerned with pointing out that it is not a new provision which this amendment seeks to introduce.

Khan Bahadur ABDUL HAMID CHOWDHURY: Sir, I have tried to understand the points of view of both the Raja Bahadur of Nashipur and Professor Kabir. Raja Bahadur's opposition to the extension of jurisdiction to the High Court is quite untenable. Khan Bahadur Naziruddin Ahmad while moving his amendment clearly explained that doubt had been expressed some time back as to whether the definition of the term "civil court" includes the High Court. Hence it was necessary to include the words "High Court."

Now, as regards my learned friend Professor Kabir's opposition, I wonder (Mr. HUMAYUN KABIR: It is an extension of the scope of the Bill.) that he opposes his former proposal. At first, he was trying to restrict the scope of the provisions of this Bill by doing away with the jurisdiction of civil courts, but now he does not want to give any relief to those who have already started litigation in the civil courts. I fail to understand the logic of my friend. The main principle of this Bill is to adopt some speedier method for disposal of

election disputes. Under the existing system, parties are required to resort to expensive and dilatory tactics and there are sometimes motives behind these steps. It is quite natural that sitting members, particularly sitting executives, do not want to be unseated, and they resort to all possible tactics to prolong their terms. It is with a view to put an end to these obnoxious practices that this Bill has been brought before this House. If this Bill is enacted into law, it will do immense good to those who are concerned with elections.

Now, those litigants who have already filed their suits in some courts will be bound to stop further proceedings as a result of this Bill being enacted into law. In those cases, Sir, relief is absolutely necessary, and this amendment provides for that relief. So, I cannot understand how there can be any objection to this proposal.

With these few words, I lend my whole-hearted support to the amendment moved by Khan Bahadur Naziruddin Ahmad.

Mr. HUMAYUN KABIR: Sir, may I rise on a point of order with regard to this amendment? Mr. Deputy President makes it still more clear that the amendment proposes to extend the scope of the Bill. Formerly, the High Court was not included in the scope of the Bill, for it was thought that High Court would be included in the definition of the term civil courts. So, this amendment has been proposed by the Khan Bahadur to explicitly include the High Court. I submit, Sir, that this is extending the scope of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, may I say a word on this point? I submit that the amendment makes the position absolutely clear. It does not extend the scope of the Bill. The expression used before was "civil court," but the High Court has recently held in the course of a judgment that the words "civil court" do not include the High Court. So, I have submitted this amendment.

Mr. PRESIDENT: Khan Bahadur Naziruddin Ahmad has made it clear in his amendment that it does not extend the scope of the Bill. The House has also accepted the principle underlying amendment No. 52.

Rai Bahadur MANMATHA NATH BOSE: Sir, I agree that if clause 9 be allowed to stand, then it will be necessary to accept the amendment which has been suggested by my friend Khan Bahadur Naziruddin Ahmad; but at the same time, Sir, I wish to make a few remarks as to the advisability of this amendment as well as of the Bill-clause. My reason is this: The Bengal Local Self-Government Act was passed in 1885 and the Civil Procedure Code was passed in 1882.

That Act of 1882 has been repealed and is now replaced by the Act of 1908 which is the Civil Procedure Code now in force. Section 9 of the present Act which corresponds to section 11 of the old Act gives the right to all these local bodies and persons defeated at an election to bring suits in the civil court, and up to this time all these defeated candidates have instituted cases in the civil courts, and I submit that Government is fully aware of this practice. Now, it is found in the Statement of Objects and Reasons that on account of certain election cases in Dacca the present Bill has been brought forward and is attempted to be passed. Furthermore, this Bill attempts to strangle those civil cases and lays down that those persons who brought those suits will not be entitled to go on with them, but they will have the right to submit certain petitions before the District Judge in order that they may have relief in the matter. Now, Sir, what difference there will be achieved by this method, I cannot understand. The District Judge may transfer those cases which are instituted before him either to the Subordinate Judge or to the Munsiff, but in that case the same officer from whom the case is being taken away will have to try the suit. If that be so, what advantage are we going to get by strangling those cases which are now pending in the civil courts? I do not know that up till to-day any Bill has been passed in any Legislature either by the much-maligned bureaucracy or even by the present popular Government which will take away that right to conduct pending cases. This is a straight question and a straight answer is necessary as to whether any such Act has ever been passed by any Legislature.

Khan Sahib ABDUL HAMID CHOWDHURY: Why, the Bengal Agricultural Debtors Act?

Rai Bahadur MANMATHA NATH BOSE: But does that Act take away the right of conducting pending suits? There is no law so far as I am aware that takes away the right of conducting pending suits and gives the right to institute some other suits if these suits are dismissed. So, what particular benefit will be gained I do not know. If my friend Khan Bahadur Naziruddin Ahmad had said something on that matter, it would have been much better; if he had said that those cases which are now pending in the civil courts, would have to be transferred to the District Judge and they will have to be considered as petitions, then I could easily understand him, because that would give them practically the same relief. But here there is the question of cost, and other difficulties would crop up also in future. I do not see any object in strangling these pending cases and at the same time saying that they will have the right to bring or file petitions in the District Judge's Court which District Judge again will have the right to transfer to the very same Munsiff. Sir, I am sorry I cannot support this amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I had an opportunity of making my submission on this very question yesterday. The point raised by my learned friend Rai Bahadur Manmatha Nath Bose appears to be on the face of it a very pertinent one, namely—what is the justification for strangling the pending suits—why not give the parties rights to transfer the plaints to the Tribunal appointed under the Bill when passed into an Act, as petition, just for the sake of expedition? That, Sir, is a suggestion which requires consideration. But personally, I do not see much insuperable objection to the form in which the amendment has been moved, especially in view of the fact that my friend Khan Bahadur Naziruddin Ahmad has already circulated another amendment in which he proposes that a third clause should be added to the Bill-clause and which runs as follows. I will just try to anticipate him, with your permission, as this will explain away all difficulties:—

> "The Judge holding an enquiry under section 18C of the said Act into the petition filed under sub-section (*2*) shall, in assessing the cost of such enquiry under sub-section (*2*) of the said section 18C, take into consideration the cost, if any, incurred by the parties in the suit proceeding which could not be continued by reason of the provisions of sub-section (*1*)."

Mr. PRESIDENT: The Chair has not received copy of any such amendment from Khan Bahadur Naziruddin Ahmad.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, this is the draft to which I understand Khan Bahadur Naziruddin Ahmad has agreed. This will meet his object, and at the same time this has been properly examined by the Legislative Department so that Government would be prepared to accept it in this form.

Mr. PRESIDENT: But the amendment now read out by the Hon'ble Minister has not been circulated to the members nor have I received any copy of it yet from the Khan Bahadur.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, if you think that I can move it, I shall do so. But if there is technical difficulty—which I think there is—then I hope Khan Bahadur Naziruddin Ahmad would kindly be permitted to move this amendment. I hope this will obviate all the difficulties.

Mr. PRESIDENT: Is it more or less the same amendment as the Khan Bahadur's?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, we could not follow when the Hon'ble Minister read out the draft amendment.

Mr. PRESIDENT: Sir Bijoy, you had better read out the full amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: All right, Sir. The amendment runs as follows:—

"That in clause 9 of the Bill, the following new sub-clause be added at the end, namely:—

(*3*) The Judge holding an enquiry under section 18C of the said Act into the petition filed under sub-section (*2*) shall, in assessing the cost of such enquiry under sub-section (*2*) of the said section 18C take into consideration the cost, if any, incurred by the parties in the suit or proceeding which could not be continued by reason of the provisions of sub-section (*1*)."

Sir, to my mind the most important objection that could be raised to the amendment of Khan Bahadur Naziruddin Ahmad was that there was no provision for cost—it is unfair to parties that they should incur costs in invoking the existing law and then that law should be superseded by legislation and the parties should be compelled to incur additional costs because of the fresh legislation. I fully appreciate that objection. Now, that objection will be fully met if an amendment on the lines of the new draft is added to the Bill-clause. Sir, as regards the principle underlying the Bill-clause, I hope my honourable friends agree that the main object of this clause is to minimise the costs and to expedite disposal of disputes. If we allow the suits to be prosecuted in the civil court, then the parties under the Civil Procedure Code will have the right to go to the High Court, which will certainly not inure to the benefit of the parties concerned. We do not want them to waste money. It is, therefore, to their benefit that instead of the matter being pursued in civil court, the suits should be tried on petition by a special authority appointed by Government.

Then comes the question of expeditious constitution of the local bodies. My learned friend Professor Kabir says that Government sometimes delay very much in constituting the local bodies and it does not therefore lie on their lips at least to suggest that they are anxious for quick reconstitution of the local bodies. It may be that on a particular occasion Government could not appoint the members quickly

and that deferred the reconstitution of a particular local body for some time. But the general principle is unexceptionable, namely, that the reconstitution should take place as early as possible. So, in that view of the mater, I hope my friends opposite will withdraw their objection and will agree to the Bill-clause as amended by Khan Bahadur Naziruddin Armad's two amendments.

Mr. PRESIDENT: The question before the House is: that clause 9 of the Bill be renumbered as sub-clause (*1*) of clause 9 and to the said clause as so renumbered the following be added, namely:—

"(*2*) Where any suit or proceeding relating to disputes in respect of any election of a member of a District Board or of a Local Board is pending on the date of the commencement of this Act either in a civil court or in the High Court or before the authority appointed before such date to decide such disputes under the said Act and cannot be continued by reason of the provisions of sub-section (*1*), a petition calling in question such election may be filed under section 18B of the said Act as substituted by section 3 of this Act within thirty days after the date of commencement of this Act."

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, may I have your permission to move a short-notice amendment?

Mr. PRESIDENT: Yes.

Khan Bahadur NAZIRUDDIN AHMAD: This short-notice amendment arose out of objection raised in the House yesterday. I gave notice of an amendment at the earliest opportunity after the objection and it has been printed later on. I have subsequently received a revised amendment which is merely a rearrangement of the wording of my amendment, perhaps in a better language. So, I ask your special permission to move the revised amendment. The amendment is made only to meet certain objections raised and difficulties pointed out in the House.

Sir, I beg to move: that to clause 9 of the Bill the following new sub-clause be added at the end, namely:—

"(*3*) The Judge holding an enquiry under section 18C of the said Act into the petition filed under sub-section (*2*), shall, in assessing the cost of such enquiry under sub-section (*2*) of the said section 18C take into consideration the cost, if

any, incurred by the parties in the suit or proceeding which could not be continued by reason of the provisions of sub-section (*1*) and may include such costs or any portion of the same in any costs awarded by him to any of the parties under sub-section (*2*) of the said section 18C."

The object of the amendment is absolutely plain. It has been pointed out that if pending cases are made infructuous by the Bill and if the plaintiff is forced to start an application under the amended Act, the parties will then suffer heavy sums by way of costs incurred in the suit or proceeding and this was pointed out very pertinently by Khan Bahadur Saiyed Muazzamuddin Hosain. Something should, therefore, be done for the costs so incurred by the parties and for no fault of whose the cases could not be proceeded with on account of the amending Act. In these circumstances, discretion has been given to the Judge who hears the petition. In assessing the costs of the petition, he will take such costs into consideration and if he finds that any party has been unjustly made to spend any amount in the infructuous litigation, then the Judge may order that such costs, or a portion thereof, be borne by any party as he thinks proper. I, therefore, submit that this amendment should be accepted by the House.

Mr. PRESIDENT: Amendment moved: that in clause 9 of the Bill the following new sub-clause be added at the end, namely:—

"(*3*) The Judge holding an enquiry under section 18C of the said Act into the petition filed under sub-section (*2*) shall, in assessing the cost of such enquiry under sub-section (*2*) of the said section 18C take into consideration the cost, if any, incurred by the parties in the suit or proceeding which could not be continued by reason of the provisions of sub-section (*1*) and may include such costs or any portion of the same in any costs awarded by him to any of the parties under sub-section (*2*) of the said section 18C."

Rai Bahadur MANMATHA NATH BOSE: Sir, I have great pleasure in accepting the amendment moved by Khan Bahadur Nazir-uddin Ahmad, but at the same time I find that there are certain gaps, certain lacuna as my friend Mr. Kabir always calls it. The difficulty is this. It is said here that the Judge will take into consideration the costs, if any. There is practically no question about the cost, if any, because whenever a man has to file a petition he has got to incur some costs by way of court-fees, payment to pleaders, process fees and so on and so forth. What I mean to say is that the Judge may be pleased to take into consideration all these things, but who will pay the costs? The plaintiff may be entitled to costs, but certainly the defendant is

not liable or bound to bear any costs so long as no judgment is given against him. By no equitable consideration can he be made liable for costs. You cannot make the defendant liable, you cannot make any other person who is not a party liable to pay costs. Are we to understand then that the Government will be pleased to pay the costs to the plaintiff?

Mr. PRESIDENT: If you have any suggestion to make and if that is accepted by Khan Bahadur Naziruddin Ahmad, the Chair will have no objection to allow that alternative amendment.

Rai Bahadur MANMATHA NATH BOSE: If I am allowed some time, then I may consider the point. I am unable to suggest a fresh draft offhand.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, may I suggest that you may be pleased to adjourn the House for 15 minutes to enable us to discuss the point and come to an agreed decision?

Mr. PRESIDENT: All right. I adjourn the House for 15 minutes. The House will reassemble at 3-15 p.m.

(The House then adjourned till 3-15 p.m.)

(The House re-assembled at 3-15 p.m.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the point has been settled and copy of a modified amendment has just been placed in your hands.

Mr. PRESIDENT: Order, order. I am told that the following amendment has been unanimously agreed upon, namely:—

"That in clause 9 of the Bill, the following new sub-clause be added at the end, namely:—

(*3*) The Judge holding the enquiry under section 18C of the said Act into the petition filed under sub-section (*2*), shall in assessing the costs of such inquiry under sub-section (*2*) of the said section 18C take into consideration the costs, if any, incurred by the parties in the suit or proceeding which could not be continued by reason of the provisions of sub-section (*1*) and may include such costs or any portion of the same in any costs awarded by him to any of the parties under sub-section (*2*) of the said section 18C."

Is this amendment acceptable to Khan Bahadur Naziruddin Ahmad?

Khan Bahadur NAZIRUDDIN AHMAD: Yes, Sir.

Mr. PRESIDENT: Rai Bahadur Manmatha Nath Bose may now speak on this amendment if he wishes.

Rai Bahadur MANMATHA NATH BOSE: Sir, I have nothing to add so far as the sub-clause is concerned. It has now included the costs and definitely mentioned the person who will have to pay the costs; as such I have nothing more to add.

Rai Sahib JATINDRA MOHAN SEN: Sir, I think there is still a little lacuna left in the amendment. In order that the Judge shall be in a position to determine the cost incurred in connection with the proceedings started before the civil court, he must have the record before him. So far as this Bill is concerned, there is no provision empowering the District Judge to call for the record at any stage. It is necessary that by adding a few words this should be made clear, namely, "the District Judge is empowered to call for the record for the purpose of ascertaining the cost." Otherwise, the party may be put to a considerable expenditure for the production of certified copies of the plaints, *vakalatnama*, process fees, etc. Some District Judges are very particular in this respect. They would not move unless this power is explicitly given to them. They would want the record for the purpose of determining any point that may be raised before them. As this amendment is going to be modified, my submission is that it may be clarified by adding the few words, as I have said above.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I point out, Sir, that it is not necessary to add any words to the statute to make the meaning more clear. Under section 18C(*1*), Government retains rule-making power and the point raised by the Rai Sahib can easily be met by this rule-making power—the Judge will hold such an enquiry in accordance with the prescribed rules made under section 18C, and we propose to do so.

Mr. PRESIDENT: The Chair was under the impression that the amendment was acceptable to all sections of the House; otherwise such alterations at this stage would not have been allowed.

Mr. HUMAYUN KABIR: Sir, I want to say just a few words. It seems that there is no difference of opinion between the Leader of the House and the Rai Sahib as regards the adoption of this amendment. At the same time, the addition of a few words would make the purpose more clear. The intention is present on all sides that the Judge should be given discretion to assess and award costs, if he thinks it necessary. The only question is whether he is entitled under the present Act to call for the necessary papers—that is the only

difference—but if some such words as "and may for this purpose call for the records if necessary" are added, I think that will not change the meaning of the sub-section or extend or expand its scope but at the same time it will make the meaning clear. It is also acceptable to all sections of the House. If these words are added, I think it will meet the point of my honourable friend Rai Sahib Jatindra Mohan Sen. So I do not think Government should have any objection to add these words.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have no serious objection to adding these words. But we do not usually add unnecessary words in a Statute. If the object can be achieved by our rule-making power, is it necessary to add these words now at this last stage? (Mr. HUMAYUN KABIR: You add many things at the last stage.) Under sub-section 18C it can be easily made by the rule-making power.

Mr. HUMAYUN KABIR: The expression is very vague. There are no provisions in this Act about cost or any other matter. The rule-making power does not explicitly provide for this, and the words "and may call for such record as may be necessary" would make the meaning quite clear. Otherwise, the whole matter will be left very vague. If these words are added, they would not militate against the purpose of the Government. So I do not see why Government should not accept the suggestion of the Rai Sahib.

Khan Bahadur NAZIRUDDIN AHMAD: The Judge may hold such enquiry in accordance with the procedure prescribed by rules. This is a matter which comes within the province of procedure and this is amply provided for by the rule-making power. So, if the Government gives an assurance——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have given that assurance.

Mr. HUMAYUN KABIR: Why assurance only; the Government have no objection to add the words suggested.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: There is no objection, Sir.

Mr. PRESIDENT: The Leader of the House has assured the House that the proposed suggestion will be embodied in the rules. After this, does Mr. Kabir still insist on the addition of the words? If the House unanimously agree to make further alterations, the Chair will have no objection.

Mr. HUMAYUN KABIR: But do the Government have any objection to the addition of the words, Sir?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have no objection but the question is—is it necessary? It seems to me that it is not necessary. What I want to——

Mr. HUMAYUN KABIR: Sir, there is a suspicion in the minds of some honourable members who are also lawyers and therefore, I think, that if the Government have no objection—on the other hand these words meet their suspicions—then why should they hold up the proceedings? These are the words, Sir—"and may for the purpose call for such records as may be necessary."

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If that will satisfy my friends opposite, I shall add those words, but let me refer to the experts for the proper drafting. These words may be added, Sir, at the end "and may for such purpose call for the records of the said suit or proceedings." If the Khan Bahadur will kindly move it in the amended form, that will do.

Mr. HUMAYUN KABIR: It was the Rai Bahadur's amendment.

Mr. PRESIDENT: Let me put it before the House. I shall read out the amendment as now settled—

"That to clause 9 of the Bill, the following new sub-clause be added at the end, namely:—

(*3*) The Judge holding an inquiry under section 18C of the said Act into the petition filed under sub-section (*2*), shall in assessing the costs of such inquiry under sub-section (*2*) of the said section 18C take into consideration the costs, if any, incurred by the parties in the suit or proceeding which could not be continued by reason of the provisions of sub-section (*1*) and may include such costs or any portion of the same in any costs awarded by him to any of the parties under sub-section (*2*) of the said section 18C and may for the purpose call for the records of the said suit or proceeding."

Mr. HUMAYUN KABIR: Sir, I have only one remark to make. We accept this amendment. It embodies the general desire of all sections of the House, but I would only once more repeat what I have said before that all these contortions have to be gone through only because the principle of retrospective effect has been unnecessarily brought into this Bill and we have had to make so many amendments. A new sub-section (*2*) has had to be added which, of course, as was pointed out by Khan Bahadur Saiyed Muazzamuddin Hosain, is substantially the same as the proviso and now a new sub-clause has also had to be added and all this happened only on account of clause 9. If the Government had seen their way to drop clause 9, this Bill could have been passed in the course of perhaps 15 or 20 minutes only. So far as the other eight clauses

are concerned, there is general concord among all sections of the House. It is only the attempt to introduce clause 9 and to bring the proceedings which are already pending before courts and to interfere in this way with what has happened, that we oppose. This attempt to use the law for a particular purpose is, I think, Sir, always reprehensible in principle. That has made us oppose this Bill so long and, therefore, Sir, subject to our general opposition to clause 9, we accept this particular amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, there is one point to which my attention has been drawn, namely, in the amendment moved by Khan Bahadur Naziruddin Ahmad the words "High Court" may be omitted, as it is the general desire of the House.

Mr. PRESIDENT: The difficulty is that after an amendment has been accepted by the House, the Chair has no right to omit some words from that amendment.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: But, Sir, it is on clause 9 generally.

Mr. PRESIDENT: Is it on clause 9? Then it is all right. First, let us dispose of this amendment.

The question before the House is: that to clause 9 of the Bill, the following new sub-clause be added at the end, namely:—

"(*3*) The Judge holding an inquiry under section 18C of the said Act into the petition filed under sub-section (*2*), shall in assessing the costs of such inquiry under sub-section (*2*) of the said section 18C take into consideration the costs, if any, incurred by the parties in the suit or proceeding which could not be continued by reason of the provisions of sub-section (*1*) and may include such costs or any portion of the same in any costs awarded by him to any of the parties under sub-section (*2*) of the said section 18C and may for the purpose call for such records of the said suit or the proceedings."

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 9, as amended, stand part of the Bill.

A Division was then challenged and taken with the following result:—

AYES—19.

Ahmad, Khan Bahadur Naziruddin.	**Chowdhury, Mr. Khorshed Alam.**
Ahmed, Mr. Meshehuddin.	**Chowdhury, Khan Bahadur Razzaqul Haider.**
Aziz, Khan Sahib Abdul.	**Cohen, Mr. D. J.**
Barua, Mr. Dhirendra Lal.	**D'Rozario, Mrs. K.**
Chowdhury, Khan Sahib Abdul Hamid.	**Hosain, Khan Bahadur Saiyed Muazzamuddin.**

Jan, Alhaj Khan Bahadur Shaikh Muhammad.
Laidlaw, Mr. W. B. G.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Rashid, Khan Bahadur Kazi Abdur.
Roy, Rai Bahadur Radhica Bhusan.
Scott-Karr, Mr. W. F.
Singh Roy, the Hon'ble Sir Bijoy Prasad.
Talukdar, Dr. Kasiruddin.

NOES—6.

Bose, Rai Bahadur Manmatha Nath.
Kabir, Mr. Humayun.
Ray, Rai Sahib Jogendra Nath.
Ray, Mr. Nagendra Narayan.
Sen, Rai Sahib Jatindra Mohan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

Mr. PRESIDENT: Order, order. The House has divided. For the motion—19; against the motion—6; the motion is, therefore, agreed to.

The question before the House is: that the Title and the Preamble be added to the Bill.

(The question was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move: that the Bengal Local Self-Government (Amendment) Bill, 1941, as settled in the Council, be passed.

Mr. HUMAYUN KABIR: Sir, I submit that the Third Reading should not be taken up to-day. Under Rule 67 (2) of the Bengal Legislative Council Procedure Rules, "if any amendment be made, any member may object to the passing of the Bill at the same meeting; and such objection shall prevail, unless the President in exercise of his powers to suspend this rule allows the motion that the Bill be passed to be made." Many amendments have been made in course of the day's sitting. Some of them are of an important character. Therefore, I submit that the third reading be not proceeded with to-day.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I also agree with my friend Mr. Humayun Kabir. The Bill requires further scrutiny. The amendments——

Mr. PRESIDENT: Do you object to the third reading?

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Yes, Sir.

Mr. PRESIDENT: As the motion that the Bill be passed has been objected to, it cannot be taken up to-day under rule 67 (2) of our Rules.

The House stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Thursday, the 3rd April, 1941.

Members absent.

The following members were absent from the meeting held on the 2nd of April, 1941:—

(1) Mr. Kader Baksh.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Mr. Shrish Chandra Chakraverti.
(4) Mr. Hamidul Huq Chowdhury.
(5) Mr. Lalit Chandra Das.
(6) Mr. Bankim Chandra Dutt.
(7) Mr. Narendra Chandra Datta.
(8) Mr. Kamini Kumar Dutta.
(9) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(10) Mr. R. W. N. Ferguson.
(11) Mr. Kanai Lal Goswami.
(12) Mr. Mohamed Hossain.
(13) Khan Bahadur Syed Muhammad Ghaziul Huq.
(14) Khan Bahadur M. Abdul Karim,
(15) Maulana Muhammad Akram Khan.
(16) Sir T. Lamb.
(17) Mr. Naresh Nath Mookerjee.
(18) Dr. Radha Kumud Mookerjee.
(19) Mr. Ranajit Pal Chowdhury.
(20) Khan Bahadur Mukhlesur Rahaman.
(21) Dr. Kumud Sankar Ray.
(22) Mr. J. B. Ross.
(23) Mr. Sachindra Narayan Sanyal.
(24) Khan Bahadur M. Shamsuzzoha.
(25) Mr. J. McFarlane.

B. G. Press—1941-42—2631A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Thursday, the 3rd April, 1941, at 2-15 p.m., being the twenty-third day of the First Session, pursuant to section 62 (*2*) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

The Bengal Agricultural Debtors (Second Amendment) Bill, 1940.

Mr. PRESIDENT: The House will now take up the Bengal Agricultural Debtors (Second Amendment) Bill, 1940.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I beg to move: that the Bengal Agricultural Debtors (Second Amendment) Bill, 1940, as passed by the Bengal Legislative Assembly, be taken into consideration.

Sir, I do not think it is necessary for me, at this stage, to enter into a detailed discussion about the provisions of this Bill. The Statement of Objects and Reasons appended to the Bill will explain the scope of this measure, and the provisions that we seek to have for the purpose of removing an apparent injustice done to a body of agricultural debtors whose properties were hurriedly sold away on or after the 12th August, 1935, just at the time when the original Bill was published in the local *Official Gazette*. Sir, there has been an insistent demand for a measure of this nature in the country and, in accordance with that, Government undertook to inquire into the conditions which called for such a measure. As a result of the inquiry we had before us all the information, and on the basis of that this Bill was introduced in the other House, and it is now before the Legislative Council for their consideration. I think, Sir, I owe an explanation to the House even at this stage with regard to one particular matter mentioned in the Statement of Objects and Reasons: I refer to the third paragraph of the statement which makes mention about the High Court. Sir, it is the decision of Government not to include the High Court within the purview of this measure and with that end in view we wanted to make it clear by this amendment that the High Court would not be included within the definition of the "Civil Court" as it is ordinarily understood. But, Sir, that part of the Bill has now been taken out of it for we felt it only fair and just to consult the High Court about this provision, about this particular amendment of

the Bill. When we receive their opinion about it, we would frame a suitable provision on the lines suggested by them. Sir, that is proposed to be incorporated in another amendment and that is why it has been taken out of this amending measure. Without going into any further details, Sir, I now commend my motion for the acceptance of the House.

Mr. PRESIDENT: Motion moved: that the Bengal Agricultural Debtors (Second Amendment) Bill, 1940, as passed by the Assembly, be taken into consideration.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Sir, I rise to move my motion——

Mr. PRESIDENT: Order, order. Mr. Mesbahuddin Ahmed.

Mr. MESBAHUDDIN AHMED: May I request you, Sir, that you will kindly adjourn the House for half an hour to enable us to consider whether we shall accept the Select Committee motion or the circulation motion tabled by some of the honourable members of the House or take any other step in connection with this Bill?

Mr. PRESIDENT: As the Government desire an adjournment of the House for half an hour so that they may consider whether they will accept the Select Committee or the circulation motion, I adjourn the House for half an hour.

(After the House re-assembled.)

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Sir, I rise to move: that the Bill be circulated for eliciting the opinion of the public. It is true that the Bill has already received the seal of approval from the Lower House. But, Sir, if there is any type of Bill which should be proceeded with very cautiously, it is certainly represented by the measure before us this afternoon. The Legislative Council which is essentially a revising chamber should be particularly cautious in giving its approval to this Bill. It should have before it the opinion of the different interests which will be affected by the passing of this measure, before it should proceed to make a decision one way or the other.

I would not, Sir, enter on this occasion into the defects of the original Agricultural Debtors Act. It is enough to point out only this at present that as a result of the operation of that measure not only a considerable section of the people has been defrauded of its rightful savings in the name of affording relief to another section,

but, what is more, the entire credit system in the rural areas of Bengal has completely broken down and credit facilities are no longer available to those who require it urgently and badly.

However undesirable the original Act may have been, the present amendment, Sir, will make it more undesirable still. The one central purpose of this amendment is to introduce a new section in the Act—section 37A. It is intended to empower debtors to reopen many of the cases which have already been disposed of by the regular courts of the province. We have known for long that no law was worse than a law with retrospective effect. The Act of Attainer is still known in English history as the Act providing for legislative murder. An Act which forces people to part with property they have legitimately acquired under an existing law and which undermines a contract legitimately entered into under an existing law, is not certainly a proper and equitable legislative enactment. It is frankly confiscatory in character and is only a symptom of despotism—no matter that it is the despotism not of one man but of a class of the present.

Nothing, Sir, brings out the character of the present Government of Bengal more than the zeal it has shown during the last 4 years for robbing Peter to pay Paul. In measure after measure, unfortunately passed by this Legislature, retrospective effect has been provided for with disastrous results upon all transactions between man and man in this province. The same policy underlies the amendment which the Hon'ble Minister has commended to this House for acceptance this afternoon.

The Agricultural Debtors Act was originally passed in 1935. Before it came into operation, some of the creditors might have instituted cases against the debtors and secured a decree in respect of the property of the debtor. The proposed amendment, if carried in this House, would allow the debtor to reopen such a case before a Debt Settlement Board if the property was in the possession of the decree-holder on or after the 20th of December, 1939. Such reopening would be possible also if the property was disposed of, except according to certain procedure, even before that.

This provision of the Amending Bill is, Sir, very objectionable on at least two grounds. In the first place, I do not see why a property acquired by lawful means and still in the possession of a former creditor should not be allowed to remain in his hands. I do not see why an undue partiality should be shown to the debtor and a special law should be passed by the Legislature to withdraw the property from the hands of the former creditor who took possession of it by lawful means and by lawful right. Secondly, it should be borne in mind that a law with retrospective effect creates confusion and uncertainty in the mind of the people. They would not know if any

transaction already closed would not again be opened and if some property already acquired would not pass into other hands some time later by the enforcement of a new law passed with retrospective effect.

The Government, Sir, has made during the last four years hectic efforts to unsettle many settled things in the name of justice and equity. I believe that it is time that a quietus is given to such morbid desire for change for the sake of change alone. I, for one, Sir, feel very strongly on the policy which underlies the present Amending Bill, and I cannot support its consideration by this House without eliciting public opinion as to its utility and necessity.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I beg to move: that the Bill be referred to a Select Committee consisting of—

(1) the Hon'ble Mr. Mukunda Behary Mullick, Minister in charge of the Co-operative Credit and Rural Indebtedness Department,

(2) Mr. Moazzamali Chowdhury,

(3) Begum Hamida Momin,

(4) Mrs. K. D'Rozario,

(5) Khan Bahadur Naziruddin Ahmad,

(6) Mr. Humayun Kabir,

(7) Rai Sahib Jatindra Mohan Sen,

(8) Mr. Amulyadhone Roy, and

(9) the mover,

with instructions to submit their report by the 30th June, 1941, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Sir, no one can deny that this is one of the most important pieces of legislation that is going to be discussed and passed by this House. It concerns the cultivators and the agriculturists as a whole. The measure that has been passed before, namely, the Bengal Agricultural Debtors Act as it is called, was a temporary measure; it was an experimental measure, and it was passed by the House as such. But if the present Bill be passed now, it will be one of the permanent Statutes. Sir, there is a great difference between a permanent measure and a temporary measure, and one should be more careful to see that the provisions that are going to be placed on the Statute book as a permanent measure are sound and reasonable. But, Sir, there is another aspect of the matter which ought to be considered by this House. The clauses of the Bengal Agricultural Debtors Act have

already made a very bad impression in the minds of the people. The Hon'ble the Judges of the High Court have said, that it is a bad Act; and the other day the *Calcutta Weekly Notes* observed that the legislation known as the Bengal Agricultural Debtors Act had been passed in a most unsatisfactory way. Moreover, it is a fact that rural credit in the villages has been practically ruined by this Bengal Agricultural Debtors Act and a man who had a credit for Rs. 1,000 cannot now get a credit even for one rupee. Apart from this Act, there have been other subsequent legislations which have also served to shatter the rural credit to a great extent. So we must be very careful and think twice before deciding in what respects the existing Act should be amended. We must see that rural credit be not ruined in any way and that nothing is done to further accentuate the difficulties in the matter of rural credit. Looked at from this point of view, I should rather think that rural credit may revive if this Bill be not passed in such a hurry.

Thirdly, there is a provision for giving retrospective effect to the Bill. We have said on several occasions that on principle we do not approve of retrospective effect being given to any measure. My friend to my left, Rai Bahadur Manmatha Nath Bose, the Deputy Leader of our Party, the other day said that we are opposed to retrospective effect being given and that we shall oppose this provision in this case also. In no country in the world the principle of giving retrospective effect to such a Bill which is manifestly confiscatory in character has been proposed or has been accepted by the Legislature. But unfortunately in this House for the last three years we have been adopting this principle of giving retrospective effect which, as I have said, is a most dangerous principle. Sir, I would again emphasise that this Bill ought to be very carefully studied. And this object would be best achieved by a Select Committee. Unless there is a committee consisting of a few members of the House, it will not be possible for the whole House to consider and pay the attention that this new Bill requires. In the Select Committee, we can consider the Bill, clause by clause, in a cool atmosphere, whereas this cannot be done on the floor of the House. In discussing any matter on the floor of the House, we have to abide by the rules; here one cannot speak twice, for our rules do not allow a member to speak more than once on any particular point. What is required is a free discussion and discussion of the merits and demerits of the Bill, which is only to be expected in a Select Committee, where a member may speak as many times as he likes to convince his colleagues of his point of view. Some of my honourable friends may say that the House consists of 63 members and there may be 10 or 12 members absent, so that we get 45 to 48 members, and there being 20 members on an average that do not take any interest in the debates, it comes to this, that there will be practically 20 to 25 members in the whole House to take part in the

debate just as if it were a Select Committee. Sir, that is not the real point. As I have already said, with such a big number of people there cannot be any free discussion as some rule must be abided by in connection with the debates in such an assembly. In deciding on the intricate provisions of any Bill, agreed conclusions may be arrived at by consulting each other and examining the "pros and cons" in a cool and friendly atmosphere, and that is only possible in a Select Committee. For this reason, I have suggested that this Bill should be referred to a Select Committee. My intention is not to delay the passage of the Bill. But what I feel is that it being a most important Bill which concerns the well-being of the bulk of the agricultural classes, if this Bill is passed in such unseemly hurry, it will destroy their credit facilities altogether. With these words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that the Bill be referred to a Select Committee consisting of—

(1) the Hon'ble Mr. Mukunda Behary Mullick, Minister in charge of the Co-operative Credit and Rural Indebtedness Department,

(2) Mr. Moazzamali Chowdhury,

(3) Begum Hamida Momin,

(4) Mrs. K. D'Rozario,

(5) Khan Bahadur Naziruddin Ahmad,

(6) Mr. Humayun Kabir,

(7) Rai Sahib Jatindra Mohan Sen,

(8) Mr. Amulyadhone Roy, and

(9) the mover,

with instructions to submit their report by the 30th June, 1941, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

As regards the next motion of Khan Sahib Abdul Hamid Chowdhury, the difficulty is that in his motion he requires the Select Committee to submit its report by the 15th March, 1941; so it is out of order. But considering the circumstances that notice of this motion was given much earlier during the session, I shall consider the motion if he changes the date.

Khan Sahib ABDUL HAMID CHOWDHURY: No, Sir, I do not propose to move my amendment.

Maulvi ABUL QUASEM: Sir, I rise to oppose the amendment for circulation as well as the amendment for referring the Bill to a Select Committee. This Agricultural Debtors Act, which is commonly known as Bengal Agricultural Debtors Act, was enacted in the year 1935. I happened to be an humble member of the Select Committee appointed to consider the Original Bill in 1935. Now, Sir, opinions have been expdessed with regard to the wisdom of passing this Bill. The chief criticism levelled against this Bill is that it has led to a shrinkage of credit—that is a criticism which we cannot possibly deny. But, Sir, this Bill seeks to do something which is very necessary. In clause 6 it is sought to give relief to the people who lost their property and holdings as a result of the sale after the 12th August, 1935. Now, the principle that underlies this measure has already been accepted in some other measures passed by the Provincial Legislature. The Bengal Tenancy Act, the Money-lenders Act and other Acts have recognised the principle of retrospective effect in order to remedy undoubted difficulties. This Bill also seeks to apply the same principle in order to give relief to those people who have lost their holdings after 12th August, 1935.

Then, Sir, coming to the question of retrospective effect, I submit to the House that this Bill does not seek to do anything new. It seeks to follow the principle which has already been accepted by this House. And I do not think there is any reason for eliciting public opinion on a question like this or for reference of the measure to a Select Committee. We know, Sir, that opinions are divided. One section has already quite emphatically expressed itself against the principle which is sought to be embodied in this Bill. There is, on the other hand, a larger section of the people who think that as a logical consequence this measure is necessary to give them much-needed relief; and Government in recognition of the opinion of this larger section of the people have sought to give a legal embodiment to the principle in this Bill which has been laid before the Legislature. I think, Sir, if we have swallowed retrospective effect already in the case of some measures, it was because of the necessity which could not be avoided in order to bring relief to the most numerous section of the people who actually stood in need of relief. It does not behove us now to demur to the same principle in this Bill.

Now, Sir, I shall briefiy refer to the causes which led to the passing of the original Act, namely, the Bengal Agricultural Debtors Act. The chief reason was this: In Bengal the peasantry was heavily laden with debt and if, as a result of this heavy load of debt, the Bengal peasantry were rendered homeless, if they were deprived of their homestead and holding, if they were converted into so many landless serfs that would give rise to a situation which boded no good to any section of the community. Government thought that such a measure was

necessary if Bengal was to be saved from the horrors of a fearful social and political revolution the consequences of which no one could at the moment foresee. I was a member, as I have said, of the Select Committee on the Bengal Agricultural Debtors Bill in 1935, and I think, Sir, that the reasons which induced us to pass that measure at that time hold equally good to-day. Now, Sir, if we then wanted to avoid such a social and political upheaval in Bengal as a result of the peasantry of Bengal being turned into landless serfs, it is equally necessary now that the proposal which has been made in this Amending Bill should be accepted. And then, Sir, there is the other point. We must remember that the Lower House, the Bengal Legislative Assembly, has already passed this measure. Of course, we can claim, as the Upper House, to apply our own minds afresh to the principle sought to be embodied in this Bill. There is nothing to hinder us from doing that. But the fact that this principle has already been accepted by the Bengal Legislative Assembly should go a long way in persuading us not to press amendments like the circulation motion or the Select Committee motion. We have, however, every right to propose amendments to mitigate the hardships that any section of the House may see in this Bill, and we may insist that we should have sufficient time to propose amendments and to have them considered in detail on the floor of this House. Sir, for these reasons, I oppose the amendments for circulation and also the amendment for Select Committee.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I also rise to oppose the motion for circulation or for Select Committee. But I do so with some amount of misgivings. The principles of the Bill are, to say the least, contentious. I should think that some time is necessary for us thoroughly to understand and realize the import of the different clauses, before we can finally make up our minds and submit amendments. Our real difficulty is not the retrospective operation, but we have to work out the problem of consequential adjustments. Many sales have taken place several years back and this Bill proposes to reopen them. The difficulty is to find out a formula for compensation or adjustments for persons who have *bona fide* acquired interest in those properties at the court-sale or subsequent to the same. To mention some of the difficulties, the Bill proceeds on the supposition that decree-holders are the only persons who purchase at auction sales. Some strange mistake has led to this faulty draftsmanship, but I believe it is well known that any one may purchase at an auction sale. If third persons have purchased the properties, difficulties will arise if retrospective effect is given in such a case. Difficulties will also arise if decree-holders have purchased the properties and have let out the same to tenants without any registered document. The Bill proposes to reopen all settlements which are not covered by registered documents. We find from our

daily experience that thousands and thousands of settlements are effected without any registered documents. The tenants often pay *selamis* for the same. The question would be as to whether we should expropriate those persons who have taken settlements under the decree-holder auction-purchasers. These are some of the fundamental difficulties in the Bill.

Now, Sir, apart from this, there are drafting difficulties. The original Bill was of a very small size. The proposed new Bill was also very much smaller in size. Then in the Select Committee it increased its volume by about fifty per cent. and in the House itself it further enlarged itself. I understand that the Government has some more amendments under contemplation. They will increase the volume to still fifty per cent. over its present size. The effect of all this is—I do not object to the increase in the volume—the effect is that, by continual insertions of clauses, buts, ifs and so forth, the present form of the Bill has become heavy, involved and cumbrous. There are fortunately some Englishmen in the House whose mother tounge is English, and I will ask them to tell us whether the Bill will be easily understood by those whose vernacular is not English. There are many obscure passages and there are exceptions; and then again, further exceptions and clauses and expressions following them have been inserted all in one sentence. It will be difficult even for us, who have spent a lifetime in studying law and its interpretation and in interpreting Statutes, to find out whether certain conditions following the two exceptions belong to the first exception or to the exception to the exception. This House has already converted itself into so many draftsmen for the Government. The House has found that the draftsmanship in many Government Bills is extremely poor and consequently this House had to redraft them. At first, the House began with caution and hesitation, but now we find there are many draftsmen in the House, and they have obviously taken their business seriously. The drafting departments of the Government are doing things in a very slipshod and imperfect manner, and this House has to do the work for them. I do not know why this House should be asked to draft Bills for the Government. We have a highly paid Minister. He has, again, on one side of him a highly paid department of his own and on the other side the Legislative Department. Even then this House has got to redraft the Bills. This House has a responsibility and this House cannot refuse to draft Bills for themselves, because we know if we pass bad Bills we will be blamed as we have been blamed before. Recently the High Court has characterised an Act which had been passed by both the Houses as "a most confused piece of legislation." The "Calcutta Weekly Notes" has said in respect to the recently introduced section 168 of the Bengal Tenancy Act that it is amazing what a tremendous amount of ineptitude could be

crowded into the compass of a single section. And I have to confess that those remarks are thoroughly justified. So in these circumstances, on account of these faulty draftings, this House has to forget that this is a revising House, and that it is only a drafting House for the Government.

Mr. PRESIDENT: This is a reflection on the House which the honourable member should not indulge in.

Khan Bahadur NAZIRUDDIN AHMAD: I submit, Sir, I had not the least desire to cast any reflection on the House. If I have given any impression that I am casting any reflection on the House, I would apologize. This House feels itself called upon to draft clauses and sub-clauses. The House will have to do that if necessary, but I should think that we should require some amount of thinking to give notices of amendments, and we cannot do so in the course of a day or two. The clauses of the Bill are really very complicated. We should, therefore, require more time, and we cannot take up the consideration of the Bill before the Easter holidays. If we are given sufficient time we are prepared to consider the Bill on the floor of the House and submit amendments for the purpose and see what we can do. With the conditions I have mentioned, I oppose both the circulation motion as well as the motion for Select Committee.

Mr. PRESIDENT: It has been rightly remarked that one of the duties and functions of an Upper Chamber is to revise Statutes. As a matter of fact, one of the reasons for the creation of the bicameral system of Legislature is that the Upper House should pass Bills in such a way that it may not be a source of litigation so far as interpretation by the courts is concerned. So, this House is discharging its duty by redrafting, if necessary, the clauses of Bills.

Mr. HUMAYUN KABIR: Sir, I was feeling some difficulty with regard to this Bill, but I think, Sir, my difficulty is very much less than the difficuty which Government have obviously been feeling over this Bill. For, we find that the Bill was passed in another place on the 19th Sepember, 1940, and it has been hanging fire before this House for a pretty long time. Yet, Sir, I was not quite sure in my mind as to whether I ought to support the motion for Select Committee or the motion for consideration of the Bill on the floor of the House. But the able speech which has been delivered by my predecessor has convinced me that whatever doubts I might have had before, I ought to make up my mind in favour of the Select Committee. Although the Khan Bahadur formally said that he was against a Select Committee,

yet the whole purport of his speech was directed to the necessity of referring the Bill to a Select Committee. From the beginning to the end of his speech, the one note that was the burden of his song was that this Bill was a complicated Bill and required considerable redrafting and that this could not be done unless there was some time,—but he did not add as he should have done in all logic,—some time in the relatively cooler and less controversial atmosphere of a Select Committee. Therefore, after the speech of my honourable friend I think that we ought to support the motion for Select Committee. As I said a moment ago, I was in some doubt about the matter myself. Sir, one argument only might be brought forward against the proposal of a Select Committee. The argument brought forward by my friend Khan Sahib Abul Quasem is that this proposal may be misinterpreted as delaying tactics, but I make bold to say that it would be only a misinterpretation. Sir, this Bill was passed in September, 1940, and it has been before the House for almost two months. Now, if during the course of two months we have not as yet dealt with the Bill, I do not think it will be doing very much harm to the cause which the Bill wants to serve if the process which will make it an Act is delayed a little longer, provided that we can during the course of the Select Committee ensure that some defects and drawbacks in the Bill are remedied. As you, Sir, were pleased to remark a moment ago, one of the main functions of a Second Chamber is to revise Bills and correct drafting errors so as to minimise the chances of litigation. My honourable friend Khan Bahadur Nazir-uddin Ahmad pointed out—if not in so many words but the whole purport of his speech was to that effect—that the effect of this Bill will be to increase litigation. I might say that I am generally in sympathy with the objects of the Bill. The argument about the retrospective effect and the confiscatory nature of the Bill has to be considered in the light of the end which the Bill has in view. As I stated, Sir, on another occasion, retrospective effect, as such, has no terror for me; but wherever a Bill provides for retrospective effect, it must have some definite and good reason for it. If no useful purpose is served by giving retrospective effect, if its only purpose is to benefit certain individuals here and there, we are not prepared to give retrospective effect to a Bill. I would go a little further and say that generally any attempt to give retrospective effect is looked upon with suspicion. If you want us to give retrospective effect to a Bill, you must have sufficient reasons to justify your desire. But, as I have said, in the special circumstances of the present case, retrospective effect need not be a hindrance to passing a Bill. It may be that when we consider the object of this Bill, when we consider the clauses one by one, the House will be persuaded to agree to it in the special circumstances of the case, specially as it affects a large section of the community, one might perhaps say a vast majority

of the community of Bengal—the agricultural community. As it is going to affect their interest vitally, retrospective effect may be tolerated, because in such cases the interest of these people must necessarily be linked up with the interest of the province as a whole. It is known all over the world,—in spite of different political outlooks, religious faith or creed,—that the interest of the community or society must override that of the individual. Therefore, Sir, retrospective effect does not by itself frighten me. But there are two defects in the present Bill. Firstly, it has been badly drafted and, secondly, there are certain contentious matters—matters which are not directly concerned with the object of the Bill, but which are subsidiary objects as stated in the Statement of Objects and Reasons. It is said there that the subsidiary object of the Bill is to place the Calcutta High Court outside the general scope of the Act. Till we can examine in greater detail the reasons for taking the High Court out of the general scope of the Act, we cannot say whether this particular clause can be accepted or not——

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: On a point of order, Sir. I may inform my friend Professor Kabir that that provision has been taken out of this measure and that particular subject is under consideration in another connection.

Mr. HUMAYUN KABIR: Sir, I may say, this curious attitude of the Government of changing their mind every now and then is not for us an uncommon experience. On a previous occasion, I was very unwillingly and regretfully constrained to say about the attitude of the Government, that it is not serious in giving effect to the decisions adopted by this House. In fact, Government often do not know their own minds and go back on resolutions of which they themselves have given notice. Government give notice of a Bill; then, Sir, notices of amendments are given and finally the Bill is not taken up. If in this case the Hon'ble Minister has now decided to take out this particular object, why was it mentioned in the Statement of Objects and Reasons as a subsidiary object? If they change their minds even during the process of legislation, how are we to know where we stand? If they have decided to take it out of the Bill, there is then a further necessity for referring this Bill back to a Select Committee. If the subsidiary object is taken out of the Bill, as stated by the Hon'ble Minister, it will have a repercussion on the general structure of the Bill and some of the Bill-clauses will have to be redrafted. So, it is doubly necessary that this Bill should be referred to a Select Committee.

There is, Sir, a curious uncertainty in the mind of Government with regard to the general structure and purpose of the Bill. As I have said before, we are in sympathy with the main object of the Bill. We are in sympathy with the object of the Bill in so far as the agriculturists

have been deprived of their holdings and attempt is sought to be made to restore their holdings. But, as pointed out by Khan Bahadur Nazíruddin Ahmad, the question is whether the actual procedure suggested in this Bill will be effective. What will be the position if in a particular case, the land has been transferred many times over and if the decree-holder is not the auction-purchaser? In that case, further complications may arise; and there are other points in the Bill which require further consideration. I think in view of this and in view of what Khan Bahadur Naziruddin Ahmad has said, we are not prepared to consider the clauses till after the Easter Recess, which is about a fortnight from now. We may, however, agree to a shorter time in the Select Committee than is ordinarily taken by Select Committees. If Government agree to take the Bill up after the Easter holidays, why not take the opportunity of examining it clause by clause in a Select Committee in the meanwhile? If, Sir, that suggestion of Khan Bahadur Naziruddin Ahmad is accepted, in that case, Sir, I think that one of the objections to the Select Committee would be gone. Let us have an answer from Government so that I might develop my point further. Are the Government prepared to give us some idea as to when they want to take up the Bill——

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: At the earliest opportunity.

Mr. HUMAYUN KABIR: That is a very vague statement, and it seems that Government do not even now know their own minds. There is no point in simply keeping this Bill hanging fire before this House, the House meeting day after day and then during the same day adjourning for half an hour or three quarters of an hour or 15 minutes only to scurry to some obscure corner of the House, and come back with some last moment amendments. By indefinitely postponing the matter, I think the whole purpose of the Bill would be stultified. In this matter, the Government should definitely make up their mind that they want to take it up on such and such date, so that we can devote sufficient time and attention to the Bill-clauses and suggest amendments which might be necessary. Sir, I think that the Government itself have given us sufficient reasons why the Bill should be referred to a Select Committee with a shorter period of time, if necessary. May I, Sir, remedy a slight defect in the Select Committee motion of my honourable friend the Raja Bahadur, by the incorporation of two other names in the personnel of the Select Committee? The list is incomplete, as the consent of these two members could not then be had, and if you will permit me, Sir, I shall add these two names to the Select Committee as an amendment—Mr. Scott-Kerr and Rai Bahadur Manmatha Nath

Bose. I would also suggest, Sir, that the time for the submission of the report of the Select Committee might be a bit earlier, namely, the 21st April.

Mr. PRESIDENT: Do you like to change the date also?

Mr. HUMAYUN KABIR: Yes, Sir, to 21st April, 1941.

Mr. PRESIDENT: If the Government be willing to accept this motion for a Select Committee, the Chair would gladly permit the whole motion with the names and the date, as amended by Mr. Kabir. May I know from the Government if they are willing to accept the motion for a Select Committee.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I am sorry, Sir, that I am not in a position to do so.

Mr. PRESIDENT: Then it is no use making these new amendments.

Mr. NUR AHMED: Sir, I rise to oppose both the motions for circulation and for reference to Select Committee. Sir, as regards the first motion about circulation, my submission to this House is that this Bill was first published in the *Calcutta Gazette* a long time ago and the country had ample opportunities to consider it. Further, it was considered in the Lower House and referred to a Select Committee, and the Select Committee report also was published in the *Calcutta Gazette*. After that this Bill was introduced in this House in the last session and there was a motion for consideration of this Bill. Since then this Bill has been hanging fire before this House for long. In my humble opinion, sufficient time has been given to the honourable members to settle their minds and if some honourable members could not make up their minds during this time, I do not know how they would do so within a short time more which will be given if the Bill is circulated for eliciting public opinion. As regards reference of the Bill to a Select Committee, my submission is that the Bill was already referred to a Select Committee in the Lower House. There, it was passed with some amendments. This Bill, after all, consists of only six clauses. Out of this only sub-sections (*1*) and (*2*) of the proposed section 37A are important and these two clauses may well be considered on the floor of the House where all the members can take part, whereas in the Select Committee it would be confined to some 10 or 11 members only. And even after the report of the Select Committee, members will again send in further amendments and all these things will take much time and such undue delay is sure to entail additional expenditure. There is already a cry in the country that

the M.L.A's. and M.L.C's. as well as the Ministers are responsible for a huge expenditure of the tax-payers' money. If we cannot consider this small Bill, particularly the two clauses which are important here and now, how can we expect to pass bigger Bills? And as regards bad drafting which was pointed out by my honourable friend Khan Bahadur Naziruddin Ahmad, I respectfully differ from him. There cannot be perfection in human deeds. In any Bill, however carefully drafted and however perfectly drafted, there must be some defects. Even, for example, the Government of India Act, which passed through able lawyers and great statesmen, has disclosed so many defects, and the Act had to be amended. So, from that point of view, it cannot be said that this Bill which is under consideration is most unsatisfactory. Human beings often differ. I may say this is a bad drafting and another may say it is a good drafting. Of course, I admit I do not know English very well. I admit, as a man having common sense, that the Bill is not so badly drafted as has been said by my honourable friend. On the ground mentioned by me, I do not find any reason to support the motion for circulation or reference to a Select Committee. So, I oppose these two motions.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, it is my painful duty to oppose both the amendments, the one moved by my friend Mr. Birendra Kishore Roy Chowdhury for circulating this Bill for the purpose of eliciting opinion before the 30th June, 1941, and the other moved by my honourable friend Raja Bhupendra Narayan Sinha Bahadur of Nashipur, for referring this Bill to a Select Committee with instruction to submit the report by the 30th June next. From the reasons advanced by both the honourable members, if I may say without any disrespect to either of them, I have not been convinced in the least. So far as the first is concerned which asks for circulation, it has been said in an abstract manner that the tendency of the present Government has been not to keep anything certain in their legislative idea and in the second place it has been said that a legislative measure of this kind ought to be made more clear. Sir, I shall first dispose of the motion which asks for circulation. I do not see how it can be said that the present Government are not certain as to the legislative measure they have brought before the House some time or other. They have given every indication as to what they sought to do in the discharge of their responsibilities both to the Legislature and to the country. So far as this measure is concerned, I have explained that there has been an insistent demand for a measure of this kind, for, it may not be unknown to the House that since the period of depression in 1929-30, a large number of holdings did pass out of the hands of the agriculturists only for the reason that they were poor and were so much hit by circumstances that they were unable to stop their properties from sale. Sir, so far as the history of the measure

is concerned, it may be recalled that the situation was specifically narrated by no less a person than the Governor of Bengal, the Hon'ble Sir John Anderson while presiding over the St. Andrew's Dinner in 1933. He analysed the situation and his analysis was based upon the report of the Economic Enquiry Committee. His Excellency was pleased to observe that if the agriculturists of Bengal, who form the bulk of the population, were so much hit, then the Government of Bengal should not shirk the responsibility and they ought to take some measure by which they would be able to meet the situation. Following that, this measure was undertaken and my friend Mr. Abul Quasem has given the past history. It was passed by the old Legislative Council on the 23rd December, 1935. The Bill, as drafted, was published in the local *Official Gazette* on the 12th August, 1935.

There was some delay in giving Assent. The final Assent came on the 9th April, 1936. So far as the present measure is concerned, you will be pleased to remember, Sir, that when I had brought the amending Bill before the other House in the first instance, there was a demand made for taking the present situation into consideration, namely, the position that was created by the hurried sale of a large number of agricultural holdings through the execution of decrees obtained by landlords and other creditors as soon as they saw the first draft Bill published in the local *Official Gazette* in August, 1935. It was then urged that the position should be met and some remedy should be found for those who were hit, and then the Government practically gave an undertaking that they would consult their officers and examine the question and then come forward with an amending Bill. The position was explained by Government in a communiqué published on the 20th December, 1939. That being the situation, I submit respectfully to the House that it cannot be said that the measure is wholly a new one. It is not so, and in fact it was considered in the other House in September, 1940, and passed by that House on the 19th September, 1940. I took the earliest opportunity of laying the measure, as passed by the other House, on the Table of this House as well. My friend Mr. Humayun Kabir has taken great pains to analyse the various provisions of the Bill, but although he admits that the Bill has been before the members of this House for two months—perhaps it is more—he has not been good enough to find out—perhaps he has not cared to read the various clauses of the Bill, for had he done so, then he would have seen,—that the particular measure about the High Court is not here. As soon as I drew his attention to this, with your permission, Sir, he asked why Government had changed their policy and why they had taken out that provision; and perhaps that was thought by him to be an additional ground as to why this Bill should be referred to a Select Committee. If he were in the Chamber when I put my motion to the House, he would have found that I gave an explanation as to

why this was done; for, we thought, and I repeat that it was only fair and just, that we should consult the High Court as to what they had to say on this particular measure. Sir, the High Court is not under the control of the Provincial Government, and if the Judges of the Honourable High Court have not found time to give their opinion on this matter, then I submit we cannot be said to be at fault. On the other hand, the other provisions of this Bill are of such an urgent character that we cannot keep it back for an indefinite period of time or till it is possible for the Hon'ble Judges of the High Court to find time to give their views on the point referred to them as well as on other points in the Bill. That is the reason why we thought that we would be doing well to take away that portion out of the Bill and put that in a subsequent measure. That is my explanation with regard to this point of which mention has been made in the Statement of Objects and Reasons. The question of the measure having retrospective effect has also been discussed by my friend Mr. Humayun Kabir, who has said that on principle no legislative measure should be given retrospective effect, and I certainly am at one with him there; but if circumstances are such as make it incumbent on the Government responsible to the country at large to give retrospective effect to a measure, then I submit that Government cannot be taken to task. After all, Sir, what have they done? They have pored over this matter and thought out their ideas and have brought forward this Bill before the House. It is for the House to consider as to what provisions in the Bill they would be good enough to agree to, and it is for them again to suggest the various changes that should be effected in the several clauses of the Bill. That being so, I submit respectfully that there is no substance in the motion that has been moved by Mr. Birendra Kishore Roy Chowdhury. As I have said, the Bill has been before the public since July, 1940, when it was published in the Gazette. If I may say with all respect to the honourable members of this House, the Bill had been in the other House at different stages proceedings whereof have been published from time to time. So far as this House is concerned, I had the privilege of laying the Bill before this House, as passed by the other House, some time back—I think it was in November last that I mentioned the fact, and since then it is before the honourable members. I also submit that the honourable members of this House do certainly represent public opinion; they represent the various sections of the public opinion. If that is true, and I submit that it is so, there is no force in the suggestion that further public opinion is needed. I pointed out by reference to facts and figures that there has been an insistent demand from the country at large for this Bill to meet an emergency which came up due to hurried action being taken through courts of law. As a matter of fact, the first measure was passed and is in operation since 1936. If Government of the day had been able to establish these Boards all over the province, perhaps these unfortunate

people would have got an opportunity to bring their cases before such Boards for settlement. But the Government at that time were able to start such Boards in 16 districts only. The poor people have been hit for this. In these circumstances, I submit that there is no force in the motion of Mr. Birendra Kishore Roy Chowdhury.

With regard to the particular point raised by the Raja Bahadur of Nashipur, so far as I could gather, his contention is that due to this measure, rural credit is being shrunk and he adds as an argument for referring this Bill to a Select Committee that in the Select Committee there is room for free and frank discussion round the table which it is not possible in a House of this character. So far as the point about the shrinkage of rural credit is concerned, I have had occasion to answer questions in both Houses of the Legislature as to whether the Bengal Agricultural Debtors Act, 1935, had the effect of shrinking the rural credit. I pointed out in reply that this measure could not be said to be the only reason for the shrinkage of rural credit. There are other circumstances, namely, their inability to meet the obligations in time due to economic condition prevailing in the province from 1929 onwards. So far as the question of rural credit is concerned, I have had occasion to point out also that cheap credit cannot be considered to be the best means for alleviating the condition of the people. If the honourable members are good enough to refer back to the circumstances which have put these people to this unfortunate situation, they would agree with me in thinking that because credit was so readily and cheaply available, these poor people—helpless as they are—have been put, and are now being put, to this abject circumstance. If they had a little education, they would have been able to think for themselves and to understand their own budget; they would also have been able to understand the consequences of their acts, and perhaps they would have been able to think twice before they would have gone to anybody, to their neighbour, for finding money. And if we analyse the situation further we will also find that by borrowing they have not done anything good to themselves and to solve the difficulties; on the contrary, because credit was cheaply available, they have put themselves into further obligations, into greater risks from which it has been almost impossible for them to get out. Sir, I submit, therefore, that the question of rural credit being shrunk due to a measure of this nature is neither here nor there. On the contrary, we have had rules laid down under the provisions of this Act to make it amply clear to an honest businessman in the interior of the province that when his neighbour is in difficulty he can certainly help him with occasional credits to the tune of Rs. 50, the principal amount of which will not be touched by the Debt Settlement Boards. We have tried our best to help the really needy man out of his difficulties and also a really honest businessman so that he can help his neighbour with his active sympathy.

Sir, so far as the question of discussion of the clauses of this Bill is concerned, I think my honourable friends on this side have given the answer. Sir, now that the Bill has come out of the other House, I submit that this House should sit here and be good enough to take up the amendments and the Bill clause by clause and give their final verdict. As regards the question of time, well, Sir——

Mr. PRESIDENT: That will come later on.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: That is entirely for you, Sir, to fix, subject to the pleasure of the House.

Coming to my point, Sir, I submit that I have not been able to find anything of a very cogent character so as to lead me to accept those amendments. Under the circumstances, Sir, I feel it my duty to oppose both the amendments.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Have I not got a right of reply?

Mr. PRESIDENT: The mover of an amendment has no right of reply.

Before I put the main motion and the amendment to the House, I want to refer to the undesirable practice which has become noticeable, of late, in this House. I have found that some honourable members move amendments and make speeches on them, but when replies are given from the Treasury Benches, they are absent. It happened particularly to-day in respect of the amendment moved by Mr. Birendra Kishore Roy Chowdhury who was absent from the Chamber when the Hon'ble Minister in charge was replying to the points raised by him. This constitutes an act of discourtesy not merely to the Hon'ble Minister concerned, but also to the House. I shall take serious notice of such conduct in future. Once before I reprimanded Mr. Lalit Chandra Das for similar conduct. I observed the same breach of parliamentary decorum to-day on the part also of Mr. Birendra Kishore Roy Chowdhury. I looked to this side of the House and found that Mr. Birendra Kishore Roy Chowdhury was not present. I sent for him, but was given to understand that he had already left the Council. The Chair will not countenance such conduct on the part of anyone in future.

The question before the House is: that the Bengal Agricultural Debtors (Second Amendment) Bill, 1940, be circulated for the purpose of eliciting opinion thereon before the 30th June, 1941.

(The amendment was negatived.)

The question before the House is: that the Bill be referred to a Select Committee consisting of—

(1) the Hon'ble Mr. Mukunda Behary Mullick, Minister in charge of the Co-operative Credit and Rural Indebtedness Department,

(2) Mr. Moazzamali Chowdhury,

(3) Begum Hamida Momin,

(4) Mrs. K. D'Rozario,

(5) Khan Bahadur Naziruddin Ahmad,

(6) Mr. Humayun Kabir,

(7) Rai Sahib Jatindra Mohan Sen,

(8) Mr. Amulyadhone Roy, and

(9) the mover,

with instructions to submit their report by the 30th June, 1941, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

(The amendment was negatived.)

The question before the House is: that the Bill be taken into consideration.

(The motion was agreed to.)

Now, the next question is when this Bill can be taken up for discussion, clause by clause. I have listened to the remarks of Maulvi Abul Quasem and Khan Bahadur Naziruddin Ahmad, both of whom feel that sufficient time should be given for giving notices of amendments to the clauses. May I hear the views of the Raja Bahadur of Nashipur?

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Under the present rule, 7 days' time must be given to enable us to send amendments to the clauses. In a previous ruling you, Sir, observed that in the case of an important Bill like this, you would stick to the rule and allow us 7 days' time. As a matter of fact, if there be any delay in passing this Bill, it is due entirely to the Government. There was sufficient time, and if they had wished they could have got this Bill passed long before. But, for reasons best known to them, they have delayed over it. We understood that the Bill would not be proceeded with during the present session. I may in this connection refer to the remark which the Hon'ble Minister made on the 10th of March, 1941, when he made a declaration that the Bill would not be taken up this session. But still when the Council put the consideration of the Bill in the agenda of business,

the Hon'ble Minister said: "I am extremely sorry that the Bill of mine should again appear in to-day's agenda paper. As I am not yet ready, this may stand over for the present. I hope, however, to inform the Council in the course of the week as to when this can be taken up." May I have the information as to whether the Hon'ble Minister informed the Council office as to when it would be taken up?

Mr. PRESIDENT: The notice was given only yesterday.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, you said the other day that the Council was going to be prorogued after that day's sitting. But all on a sudden, without giving any previous notice, the Hon'ble Minister has brought in this motion. I would request you to give us at least 7 days' time for considering the clauses of the Bill and for tabling amendments thereto.

Mr. PRESIDENT: Under section 80 of the Bengal Legislative Council Procedure rules, 7 days' notice will be necessary for that. I, therefore, fix 12 noon of the 15th instant for the members to give notice of their amendments.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: With respect to you and to the House, I beg to submit that the Bill has been before the House for some time.

Mr. PRESIDENT: That is not the point. The members are entitled to have sufficient time for tabling amendments. You can, of course, make a request for suspension of the rules.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I am making that submission, Sir. I am only praying that you will kindly suspend the rules.

Mr. PRESIDENT: There must be sufficient grounds for suspending these rules. In view of what you have heard from some members of the Coalition Party——

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I do appreciate the points of view of my honourable friends. Honourable members of this House have already tabled some amendments. Besides, we will have time till Monday.

Mr. PRESIDENT: To-morrow the House is sitting for transacting non-official business. Then on Monday the House will take up the Bengal Local Self-Government (Amendment) Bill and after the point

has been urged by the two members of the Coalition Party that they require sufficient time, you still insist that they should be given only 2 days instead of 7 days?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I am sorry I am taking so much time of the House.

Mr. PRESIDENT: You ask for the suspension of the rules, but how would you justify it?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I beg to submit that that is not what I am doing. I only asked whether the honourable members would be pleased to put in their amendments till the day before the Easter holidays set in, so that my office may have time——

Mr. PRESIDENT: The Hon'ble Minister forgets that apart from the period of notice within which amendments are to be sent, the Council office will take at least a couple of days' time to consolidate the amendments, to send them to the Press and get them printed. So two or three days will be required by my office itself. Accordingly, it is physically impossible to agree to the Hon'ble Minister's proposal. Moreover, why does he insist on the suspension of the rules? Will he explain how this Bill can be taken upon on the 9th, when so many things have to be done in the meanwhile?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I submit, Sir, I did not say so. I only enquired whether it would be to the pleasure of the honourable members to put in their amendments some time before the Easter holidays, so that the Bill may be ready for being discussed, clause by clause, before the Easter holidays.

Mr. PRESIDENT: Before the Easter holidays? How can that be?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I am alive to the difficulty. But I am only submitting whether it would suit the convenience of the honourable members to put in their amendments some time before the Easter holidays, so that my office can work on them during the holidays.

Mr. PRESIDENT: You mean some time before the holidays?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Yes, Sir, on the 8th or 9th, so that we may be ready to take up the matter on the 15th or 16th April, immediately after the Easter recess.

Mr. PRESIDENT: I do not see how that can be done——

Mr. HUMAYUN KABIR: May I make a submission in this connection?

Mr. PRESIDENT: Yes.

Mr. HUMAYUN KABIR: It is quite true, as the Hon'ble Minister has said, that this Bill has been before this House for some time. But as I stated on an earlier occasion, we were not sure whether the Government would proceed with the Bill or themselves suggest a Select Committee. If the Government want the motion for consideration to be really taken up, we are quite willing to take up even at 24 hours' notice for the only amendments at this stage are a motion to refer the Bill to a Select Committee or to send it for circulation. We are quite prepared to accommodate the Government in that matter. But, Sir, when it is a question of tabling amendments to the clauses of a Bill, we must have proper time for the purpose. As happened some time ago, we had examined a Bill carefully and had tabled amendments to it; but at the last moment the Government came to the House saying that they would not proceed with the consideration of the Bill but send the Bill to a Select Committee instead. Since that time, Sir, we have ceased to apply our minds carefully to the provisions of a Bill, clause by clause, until the motion for consideration has been passed by the House. Our rules also provide that this should be so. Therefore, Sir, after the motion for consideration is passed, then and then alone does the question of detailed examination of a Bill, clause by clause, arise.

Then, as regards the Bill having been before this House for some time, it may be within the recollection of the House that on the 10th March, after this matter had appeared on the Order Paper, the Hon'ble Minister said that he was not prepared to proceed with the Bill. Consider the facts, Sir. The Hon'ble Minister was responsible for the conduct of the Bill in the Lower House. If after having sat on it, deliberated on it, and debated on it in the Select Committee as well as on the floor of the House, having digested it and ruminated over it for all these months, he comes to this House on the 10th March saying that he is not prepared to take up the Bill, then I submit, Sir, that it does not lie in his mouth to say that we who have not really examined the clauses of the Bill should be hurried into putting forward amendments in the course of one or two days. Sir, it is the unaccountable procrastination of the Government that has landed them in the present situation.

Let us consider another matter, Sir. As we all know, the prorogation order was issued by the Governor, but the Government was still not awake to the necessity of passing this Bill in time. I

do not know, Sir, what has happened since then, when the Council was about to be prorogued that we should be told all on a sudden to take up this Bill for consideration immediately. Nor do we know what reasons induced the Governor to recall the order of prorogation of the Council after having once issued it. Would the heavens have fallen, would the Ganges have flown in a reverse direction if we took up this Bill for consideration on the 21st April? The Hon'ble Minister went into a discussion of the clauses of the Bill, but did not consider it worth his while to give any reasons whatever for opposing the motion to refer the Bill to the Select Committee. He confined his remarks to Mr. Birendra Kishore Roy Chowdhury's motion for circulation which, however, did not receive much support from any section of the House. And yet, practically the whole of his speech was taken up with the question of circulation and he cleverly avoided considering the arguments of Raja Bhupendra Narayan Sinha Bahadur. He discoursed at length over an absolutely irrelevant subject, namely, the distress of the peasantry, etc. We all know about it, and it was not necessary to repeat that tragic fact in this connection. Nor was it at all necessary for him to give a history of the Bill, that the Bill was passed in another House in 1935 or so. We all agree that that was so, but, Sir, it was quite irrelevant in this connection.

Mr. PRESIDENT: And that is why I did not allow him to proceed on those lines.

Mr. HUMAYUN KABIR: Sir, I do not want to take further time of the House, but would conclude by saying that we must have full time given to us to put in our amendments.

Mr. J. B. ROSS: May I make a submission in the matter, Sir? The impression that we on this side of the House have gained is that the Hon'ble Minister is attempting to hustle the members of the House over this Bill. That is an attitude which we cannot understand in view of the amount of time that Government have taken in bringing this Bill before the House. It is, perhaps, unfortunate that the Hon'ble Minister should always find himself in the position of having to pilot badly-drafted Bills through this House. But in view of the apprehension which we have heard expressed in regard to the drafting of the clauses of the Bill, we feel that members of the House should have their full time for consideration of the Bill and for submission of amendments.

Khan Sahib ABDUL HAMID CHOWDHURY: Sir, I am in full agreement with Mr. Ross. The Bill under consideration is no doubt a very controversial one and it seeks to introduce very drastic changes in the existing state of affairs. If this Bill is passed into law in its present form, it will disturb the peace and tranquillity of the country.

Every clause of this Bill requires mature consideration and very careful examination. I, therefore, submit, Sir, that full time admissible under our rules may kindly be allowed for giving notice of amendments in regard to this measure.

Khan Bahadur ATAUR RAHMAN: Sir, we are anxious to pass any reasonable measure brought before the Council; but unfortunately, in this case we have not gone through this Bill in detail. We thought that this Bill would not be taken up this session. There is at least one point in this Bill which is rather very important, and is required to be considered by every member of the House, even by the European Group. It is probable that a section of this Bill will have to be amended If the Bill is now passed without any amendment in respect of that section, there may be serious disturbance in the country. I would, therefore, suggest that the Hon'ble Minister should give us time to consider the clauses of the Bill in detail. We are as anxious as the Hon'ble Minister himself to pass the Bill as quickly as possible. It has been brought before the House almost at the fag-end of this session. But we must have time to consider it very carefully.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, all this trouble has been brought in by Mr. Humayun Kabir. The other day he opposed the third reading of the Bengal Local Self-Government (Amendment) Bill, and it was postponed till next day; then we took time; and the Governor's order of prorogation had to be recalled. Otherwise, in the normal course——

Mr. HUMAYUN KABIR: On a point of order, Sir. I did not oppose the third reading, because that question did not arise at that time.

Khan Bahadur NAZIRUDDIN AHMAD: There was some objection at that time——

Mr. PRESIDENT: Order, order. I have listened to the honourable members representing all sections of the House, and I regret that I cannot accede to the request of the Hon'ble Minister to suspend the rules. So, the honourable members will give notice of amendments till 12 noon of the 15th April, 1941. On reopening after the Easter holidays, the office will see that they are consolidated and printed. The earliest date on which this Bill can be taken up for discussion, clause by clause, will, therefore, be on the 21st April, 1941.

The House now stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Friday, the 4th April, 1941.

Members absent.

The following members were absent from the meeting held on the 3rd April, 1941:—

(1) Mr. Kader Baksh.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Mr. Shrish Chandra Chakraverti.
(4) Mr. Hamidul Huq Chowdhury.
(5) Mr. Lalit Chandra Das.
(6) Mr. Bankim Chandra Dutt.
(7) Mr. Narendra Chandra Dutta.
(8) Mr. Kamini Kumar Dutta.
(9) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(10) Mr. R. W. N. Ferguson.
(11) Mr. Kanai Lal Goswami.
(12) Mr. Mohamed Hossain.
(13) Khan Bahadur Syed Muhammad Ghaziul Huq.
(14) Khan Bahadur M. Abdul Karim.
(15) Maulana Muhammad Akram Khan.
(16) Mr. W. B. G. Laidlaw.
(17) Sir T. Lamb.
(18) Mr. Naresh Nath Mookerjee.
(19) Dr. Radha Kumud Mookerjee.
(20) Mr. Ranajit Pal Chowdhury.
(21) Khan Bahadur Mukhlesur Rahman.
(22) Dr. K. S. Ray.
(23) Mr. Sachindra Narayan Sanyal.
(24) Khan Bahadur M. Shamsuzzoha.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 4th April, 1941, at 2-15 p.m., being the twenty-fourth day of the First Session, pursuant to section 62(*2*)(*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

Statement made by Mr. Birendra Kishore Roy Chowdhury apologising to the Chair for absence from the Chamber.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Mr. President, Sir, I shall be obliged if the Chair will kindly permit me to make a statement explaining my absence yesterday which evoked certain strictures from the Chair. I am sorry, Sir, that in connection with a very urgent matter I had to leave the Chamber for a few minutes. I then thought that I would be able to return to the House in time before the Hon'ble Minister replied to the points raised in my speech before the House yesterday. But unfortunately, I was detained there much longer than I had anticipated and it was not possible for me to return to the Chamber in time. Had I known that it would not be possible for me to return, I would certainly have informed the Chair before leaving the Chamber. I regret very much the unfortunate incident and I would make it clear to the House that it was never my intention to show any discourtesy either to the House or to the Hon'ble Minister or to the Chair. If, however, the incident has in any way given rise to any doubts, I express my regret once more through you, Sir, to the House and I hope the House and the Chair will accept it.

Mr. PRESIDENT: That will do. The House will take up Questions, now. Khan Bahadur Saiyed Muazzamuddin Hosain.

QUESTIONS AND ANSWERS

Amendment of the definition of "Civil Court" as given in the Bengal Agricultural Debtors (Amendment) Act, 1941.

70. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state whether he is

aware that in a recent suit in the Calcutta Small Causes Court, it has been held that the definition of "Civil Court" as given in the Bengal Agricultural Debtors (Amendment) Act, 1941, does not include a Small Causes Court?

(*b*) Does the Hon'ble Minister propose to amend the definition of "Civil Court" in the Agricultural Debtors Act making it clear that it includes Small Causes Court also?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) Yes.

(*b*) No, as the Court of Small Causes, Calcutta, is concerned mainly with the urban people and not with the agriculturists.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that even in the mofussil Small Causes Courts this objection is being raised?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Yes, Sir. It has recently been brought to my notice that instances of that nature have taken place at least in one subdivision of Mymensingh. We have re-examined the question and I can assure the honourable member that this particular Court is entirely wrong. We are issuing instructions accordingly that a Civil Court though functioning as a Small Causes Court in the interior, is Civil Court within the meaning of the Bengal, Agra and Assam Civil Courts Act (Act XII of 1887) and not within the meaning of Provincial Small Cause Courts Act (Act IX of 1887).

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Civil Court bound by the instructions of Government or they will require rulings from the High Court?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: The Civil Court is bound by law.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Not by instruction?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: We are explaining the position to them. They are bound by the law and the law is clear on the point.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Civil Court bound by the interpretations of the law as given by the administrative authority or as given by the High Court?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: It is not a question of interpretation. It is a question of opening up its eyes as regards making a mistake of law.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister consider the desirability of making it absolutely clear in the law instead of sending instructions which may not be respected by the Civil Courts?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I can assure the honourable member that the law is clear. I would only refer him to section 25 of the Bengal, Agra and Assam Civil Courts Act (Act XII) of 1887 and the provisions of the Provincial Small Cause Courts (Act IX of 1887). The law is absolutely clear.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that the definition of "Civil Courts" as given in the amended Act refers to the definition of Civil Court in the Bengal, Agra and Assam Civil Courts Act of 1887 which includes the High Court but excludes the Small Causes Court. That has been the interpretation not only of a mofussil Small Causes Court but also of the Calcutta Small Causes Courts?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I am afraid there is some amount of confusion. The Calcutta Court of Small Causes functions under the Presidency Small Causes Act, whereas a Small Causes Court in the mofussil functions as a Civil Court even when it tries cases under the provisions of the Small Causes Court.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the term Provincial "Small Causes Court" included in the term "Civil Court" in the Bengal, Agra and Assam Civil Courts Act?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: No, the honourable member may be good enough to know that the two kinds of courts in Bengal are different.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister——

NON-OFFICIAL RESOLUTIONS.

Mr. PRESIDENT: Order, order. The House will now take up consideration of the Non-Official resolutions. On the last date fixed for non-official resolutions, the House was considering the following resolution of Khan Bahadur Ataur Rahman:

> "That this Council is of opinion that the Government should appoint a committee consisting of experts and six members of the Legislature to investigate into the effect of embankments and other obstructions to the waterways and drainage in the province."

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, I regret that owing to indisposition I could not be present in the House on the 21st March last when my honourable friend moved this resolution. I would point out to my friend that as early as 1938 we had formed a committee similar to what is proposed in his resolution, consisting of experts and scientists. That committee very thoroughly went into the general question of the river problem of Bengal including the intricate problem created by the embankments. Sir, soon after my assumption of the charge of this department, I circulated a note prepared by our Chief Engineer as also an elaborate questionnaire dealing with the river problem of this province to all members of the Legislature as well as to some public bodies. The reply which we received was thoroughly considered by that committee and I had also personal discussions with some members who took interest in these matters. As a result of the deliberations in that conference in July, 1938, and after full consideration was given to the views of the representatives of the people, the conference adopted certain resolutions. I would refer to the resolution No. 4(B), 4(G) and 5 to 9, from the copy of the proceedings which I have placed on the Table. We have already started investigations on the subject and collected certain materials which the honourable member wants the proposed committee to collect. Sir, the embankments are unfortunately a legacy of the past. It has to be admitted that the embankments have been responsible for killing a number of rivers in Western and Central Bengal. Sir William Wilcox very rightly called these embankments "Satanic Chains." But the policy which we are now trying to follow is to demolish these embankments gradually. I am referring now to the marginal embankments. But the difficulty is that these embankments having been there for a considerable number of years, important vested interests would be adversely affected if they are removed all at once; Government may also be liable for damages. We are, therefore, in those cases where we cannot readily remove the embankments, proposing to control the flushing inside those embanked areas. That is all we can do—the best of a bad job.

The worst effect of the embankments can be readily traced as we come near the sea. I am now referring to the tidal rivers. As you know, these rivers require spaces for spilling. They keep the stream alive and once you deprive the river of the spill area, silt is deposited and the river is choked up. This point was also very carefully considered by the conference. I refer to resolution No. 8(C) in the copy of the proceedings of the conference referred to, in which they have proposed a special legislation by which it is intended to acquire lands for spill-areas. Besides, I am glad to inform the House that this year we have been able to provide money for a River Research Institute. This will help us by model experiments to find out the effect of the removal of any particular embankment. I had occasion to watch some of these model experiments at the Lahore laboratory of the Punjab Government where, although the problems were of a different character, they are of very great help to the river engineer in adopting measures for the training of rivers. Within a couple of hours it was possible for us to find out how a particular river would behave within a year and I hope that when our River-training Institute is a settled fact, it will be possible for us to take more definite and prompt action than we have been able to do so far.

Now, Sir, I would come to the railway embankments. I have taken up this question since we assumed charge and the flood of 1938, although it had its devastating effect throughout the country, helped us to a considerable extent to formulate our policy in this direction. Immediately after the flood of 1938, we put ourselves into touch with the District Officers of all those districts which had the flood and obtained reports from them showing the particular places where the railway embankments interfered with the drainage. Those reports have now been investigated into by our experts, including the question of the enlarging of culverts and also suggesting new culverts where needed. Sir, we discovered one important point during our investigation and that was how some of these railway embankments really acted as flood embankments. My friend has referred to the Sara-Serajganj Railway embankment. As I had promised on a previous occasion in this House to investigate into the problem of enlarging the railway culverts in Azimganj in the Murshidabad district in reply to an adjournment motion of my friend the Raja Bahadur of Nashipur, I had personally visited that place with my Chief Engineer and other experts. Sir, it transpired as a result of our investigation that even if the railway culvert had been enlarged before the flood, it would not have appreciably lowered the flood level in the town; on the other hand, it would have carried the flood with its devastating effect to areas which escaped from it. That is an aspect of the question which we should bear in mind. If you take up the Bhagirathi, that is the upper reaches of the river Hooghly, you will find that there are railway embankments on both sides of the river from Calcutta northwards

right up to nearly its offtake from the Ganges. There is no denying the fact that these embankments have contributed to the deterioration of the river by depriving it of its spill area. But as things stand to-day, we cannot do away with the railway altogether. At the same time, we would like to do our best to see that the drainage is not interfered with by the railway embankments. As I have just now said, we have now got all the places from where we received complaints of such waterlogging. They have been examined by our experts and we have taken up the matter with the Railways where they are concerned. I believe that although we cannot bring about an ideal state of affairs in this matter, we are doing our best to improve matters as best as we can. Sir, my honourable friend has referred in general to the question of waterlogging. I admit that that is really a very serious problem for this province. But for this waterlogging I do not think that the human agency can be made entirely responsible. The frequent change of the course of rivers in a deltaic country is also responsible; for, when it changes its course, it leaves the old bed low and stagnant. Unfortunately, Sir, some of these areas are so wide that a quick solution is not possible. It is with that object in view that we have undertaken a comprehensive contour survey of the province. We have concluded the survey of Western and Central Bengal and have already started preparing schemes for the resuscitation of the dead and dying rivers as well as draining the low areas of this part of the country. We have also undertaken the contour survey in Northern Bengal and propose to shift the staff to Eastern Bengal after they have concluded their work in North Bengal. I must here admit, Sir, that the process of contour survey is rather slow as we are greatly handicapped by the fact that the number of the technical staff required is very much limited. We are doing our level best to push on the work of this survey. At the same time, we are taking in some new hands who can work with the old staff to get the necessary training. So we hope, Sir, as we proceed, we will be able to have a larger staff to complete the contour survey at an early date.

Sir, I might further state that as a result of our investigations we have already prepared the Howrah-Hooghly Flushing Scheme which will not only flood-flush the area but will also improve all the small waterways within that area. Sir, the other two schemes, the Moore and the Darkeswar schemes are nearing completion. When all these are brought into operation, I am sure that the health and productivity of those areas will considerably improve. In the meantime, Sir, with the help of the Department of Agriculture we are also trying to advise the people to grow the particular kind of paddy which would be suitable in those low lands which cannot be improved at once. I hope, Sir, after what I have stated about the measures which Government have already taken, it will not be considered necessary to have another committee to go into this question.

With these few words, Sir, I request my honourable friend not to press his resolution.

Khan Bahadur ATAUR RAHMAN: In view of the remarks and the statement made by the Hon'ble Maharaja of Cossimbazar, I am ready to withdraw the resolution with the permission of the House, with the following reservation. We are hearing of all these schemes for years and as far as we understand from the Hon'ble Minister——

Mr. PRESIDENT: Order, order, if you want to withdraw the resolution, then you are not entitled to any reply.

Is it the pleasure of the House that the resolution be withdrawn?

(The resolution was, then, by leave of the House, withdrawn.)

Khan Bahadur ATAUR RAHMAN: Sir, I beg to move: that this Council is of opinion that the Government contracts should be given to Bengal Muslims on their population basis in various districts after properly advertising for tenders.

Sir, the present Government has already fixed the ratio of Government appointments. The problem of employment of our men is very acute now-a-days and only Government service is not enough to absorb all the unemployed people. So, our request is that some more facilities should be given to our men, so that they can undertake contracts from Government.

With these few words, I move my resolution.

Mr. PRESIDENT: Resolution moved: that this Council is of opinion that the Government contracts should be given to Bengal Muslims on their population basis in various districts after properly advertising for tenders.

Khan Sahib ABDUL HAMID CHOWDHURY: Sir, I beg to move that in resolution No. 2 of the List for all the words beginning with "the Government contracts should be" to the end, the following be substituted, namely:—

> "Government should grant increasing facilities to Bengalee Muslims and Scheduled Castes to tender for Government contracts in every district, and that the contracts should be distributed to the various communities on a population basis, as far as possible, compatible with economy and efficiency."

Sir, I have gone through the resolution as it is worded and moved by our eminent friend Khan Bahadur Ataur Rahman. I have also carefully listened to the very interesting speech with which he has moved this resolution. I share his concern for the poor Muslim community

which is backward in every avocation of life. I am in full agreement with the main principles underlying the resolution, but, Sir, I have some misgivings regarding the construction of the resolution. If the resolution, constructed as it is, is accepted, it will give rise to practical difficulty in giving effect to it. In the matter of accepting tenders for works the fulfilment of certain conditions is absolutely necessary: as for instance, financial stability, and efficiency, and so on, and so forth. I doubt very much if an adequate number of Muslim contractors will be available who will be able to stand the test of this scrutiny. It is for this reason that I have proposed the addition of the words "as far as possible". Then, Sir, it is my intention to re-draft the resolution in such a way that it may be less offensive and less communal in colour but more acceptable from a practical point of view. I have proposed to include the Scheduled Castes also, as they are as much backward as the Muslims. As I have no quarrel with the main principle underlying the resolution, I think a lengthy speech is not at all necessary. I have explained the necessity for the change I have proposed in my amendment. With these few words, I commend my amendment to the acceptance of the House and request the honourable sponsor of the resolution to agree to my amendment.

Mr. PRESIDENT: Amendment moved: that in the resolution, for all the words beginning with "the Government contracts should be" to the end, the following be substituted, namely:—

> "Government should grant increasing facilities to Bengalee Muslims and Scheduled Castes to tender for Government contracts in every district, and that the contracts should be distributed to the various communities on a population basis, as far as possible, compatible with economy and efficiency."

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Sir, I regret very much that Khan Bahadur Ataur Rahman has moved this resolution regarding the distribution of Government contracts between the Muslims and other communities. The danger of moving a resolution of this character is evident to all who may want communal harmony and peace in this province. Of course, Sir, however much I may regret this resolution, I am not surprised at it. When in the beginning of this century the principle of separate and communal representation was adopted and worked, it was foreseen by many that it would be only the thin-end of the wedge which would widen gradually the gulf between the two communities—the Hindus and Muslims. Separate representation in the legislature was in time extended to separate representation in the services and then largely to the local bodies as well. To-day in this resolution our colleague, the Khan Bahadur, is

demanding its extension even to contracts. I do not know where such separation and reservation will ultimately lead to. It is needless for me to expatiate on the subject further. The little that I have already said is intended only as a protest against the spirit which has inspired this resolution. I shall, however, be content to see the amendment of the Deputy President accepted by the House.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I thought I would not take part in this debate but a few remarks let fall by my esteemed and honourable friend who has just sat down, call for some comments. The main resolution draws the attention of Government to a sad state of affairs. Sir, contracts are distributed not on merit but on other grounds. If, however, it is ever considered on merits, then the merits are decided not on the quality of the work but in certain other unofficial ways which are too well-known to require any particular mention in this House.

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Well, that was possible in the old days.

Khan Bahadur NAZIRUDDIN AHMAD: No, Sir, even in the present days the same system of distribution of contracts and judging of merit still prevails.

Sir, my honourable friend has said that if more Mussalmans are taken as contractors, it will widen the gulf between the two communities. I think, Sir, it is a pleasing delusion from which my honourable friend is suffering. It is a kind of superiority complex which induces him, quite honestly I believe, to assume that Mussalmans are incapable of any public service. He further said that this would be the thin-end of the wedge—that if Mussalmans are taken in as contractors it would lead to some unknown evil which my honourable friend dreads to think of. I believe, Sir, that this sort of incorrect statements made, may be, in honest belief, questioning the capacity of the Mussalmans—it is this sort of mental pose or rather mentality which widens the gulf between the two great communities.

The amendment moved by my friend, the Deputy President, is more acceptable in form and should be acceptable to Government. He has worded the amendment very carefully and we would have no objection to accept it. But it leaves considerable loopholes, loopholes introduced honestly to guard against any objectionable feature; but in doing so he has unconsciously left open the door to favouritism and things of that sort. The words "as far as possible" and "compatible with economy and efficiency" leave enough loopholes, though I sincerely believe that the honourable the Deputy President never intended that there should

be any loophole. But the introduction of these words make his amendment least objectionable and more acceptable. I submit to Government that orders should be passed and rules should be framed that these conditions—"as far as possible" and "compatible with economy and efficiency"—may not be utilised for the purpose of shutting out *bona fide* and honest Muslim contractors. I believe this contract business has many dark sides and the efficiency of contractors is judged not by the actual quality of the work done but by the quality of other considerations. I also believe that if Mussalmans are introduced, they would be able to do the work at least as badly as other approved contractors and be ready to be judged by the same standard. I believe that Muslims are quite capable of taking their share in this semi-public capacity and I hope the amendment should be accepted by the Government.

Rai Sahib JATINDRA MOHAN SEN: Sir, may I move a short-notice amendment to the amendment of my friend Khan Sahib Abdul Hamid Chowdhury, namely, that the words "on a population basis" be deleted? Then the amendment will read thus:—"Government should grant increasing facilities to Bengalee Muslims and Scheduled Castes to tender for Government contracts in every district, and that the contracts should be distributed to the various communities as far as possible compatible with economy and efficiency." My reason for suggesting this amendment is, as has been said by my friend Mr. Roy Chowdhury, that the original resolution, as has been framed, would accentuate communal difference in the province. Of course, I do not fully agree with him that if contracts are given to the Mussalmans in sufficient number, the communal tension would increase, and that if contracts are given to the Muslims in sufficient numbers, the communal wranglings would increase. I do not accept that view, Sir. I think that my amendment of the amendment should be accepted in order that the whole House would be in a position to accept the amended amendment of Khan Sahib Abdul Hamid Chowdhury. If these words are omitted from his motion, it will not really weaken his resolution; on the contrary, it would strengthen it and I think the whole House would have no hesitation in accepting it, because in distributing the contracts the Government should certainly take into consideration the question of population and other factors as well. So, we can certainly leave this matter to the Government with full confidence and I do not think, Sir, as I have already said that this amendment would lose its force if these words are deleted; on the contrary there would be complete harmony in the House in accepting this amended resolution. As a matter of fact, Sir, with regard to the resolution which has been moved by the mover, Khan Bahadur Ataur Rahman, that all contracts should be given on a population basis, that would, I am afraid, create a situation which would not be conducive to contracts being executed by

good parties. Sir, contracts are given to persons who have got the competency to execute them and no question of communities or class or religion or creed, nothing communal should come into the picture at all: only the qualifications of the contractors should be taken into consideration. So, I strongly oppose the original resolution of Khan Bahadur Ataur Rahman but I can certainly accept the amendment of Khan Sahib Abdul Hamid Chowdhury in the amended form, as suggested by me.

Mr. J. B. ROSS: Mr. President, Sir, it is not the custom of the European Party in this House to take part in debates on communal issues, as we feel that resolutions having a communal character should not be encouraged in this House. The resolution moved by my honourable friend is, however, of such a one-sided character that we feel we would be lacking in our duty if we did not express our views on it. This resolution betrays a sense of irresponsibility which I have not before seen on the part of my honourable friend, the mover. It would seem that the principle of awarding contracts to the lowest tenderer who enjoys the confidence of Government is sought to be done away with by this resolution as well as by the amendment. The amendment of my friend Khan Sahib Abdul Hamid Chowdhury seeks to provide a cover for the obvious consequences of the passing of this resolution. Such a resolution as this may evoke a similar demand from other communities. Does my honourable friend mean by his amendment that each contract should be subdivided and allotted in parts to each community on a population basis? The absurdity of this suggestion has only to be mentioned to be realised. If this resolution were carried or the amendment, the Hon'ble Finance Minister would find himself faced with the necessity of appealing to this House for a special tax to pay for the staff necessary to see that contracts were correctly apportioned and also to check the work and bills of the different communities. A resolution such as this would obviously mean the encouragement of nepotism, because if a certain proportion of the contracts at the disposal of the Government of Bengal are reserved for a special community, there is going to be a good deal of back-door working before these contracts are awarded. Muslims have no claim for special treatment in respect of contracts, nor have they any right, in my opinion, to expect special treatment which both the resolution and the amendment suggest. If this resolution were accepted by Government, it would lead to a very unhealthy state of affairs in the carrying out of works by inefficient men. Let us stick to the only responsible method of distributing contracts, namely, by public tenders and the awarding of contracts to the lowest tenderers who enjoy the confidence of Government.

Maulvi ABUL QUASEM: I have listened, Sir, carefully to the speech just delivered by Mr. Ross. I believe he has been in this land for a considerable length of years, but I am sorry to say that he has

learnt very little from his long stay in this country; at any rate, he has failed to take note of the realities. In this land of ours there are many communities which go to make up the total population and when a particular proposal or measure is brought up in this Legislature in the name of a particular community, at once there are certain theorists who say that this is a communal and therefore an unwelcome thing. But they forget that there may be such a thing as communal justice. Each community is a part of the total population of a country and if any particular community wants justice to be done to it, it is not seeking to do anything hateful. It is a well-known fact that the Mussalmans in this province, where they form the majority of the population, do not enjoy all the opportunities and amenities of life to which by right they are entitled. It is also known that in Government service in spite of very good qualifications being possessed by Mussalman candidates, Government has had to lay down rules providing a ratio for Muslim appointments. Similar is the case with the Scheduled Caste candidates. What is the reason? Experience showed that qualified Mussalmans were ignored so far as these appointments are concerned. Bitter experience showed the necessity that Government should take action which would be for the benefit of all individual sections. I say that the Mussalmans have been ignored altogether. They do not want favouritism and what Mr. Ross is pleased to term nepotism. They want equitable conditions and equality of opportunity. The atmosphere that prevails in the departments which distribute contracts is considered by Mussalmans to be definitely hostile to them. Mussalmans do not feel encouraged to tender for contracts, because they know they will have little chance of getting the tenders accepted on their own merits. People who have already been tendering for contracts and getting them approved know the arts and artifices of the business, but the Mussalmans do not know them. That is the reason for moving a resolution like this calling attention to the dissatisfaction that prevails in the Muslim community about the present distribution of contracts. It only seeks to get justice for the Muslim community which is after all a part of the country, and why should it be considered wrong if the Muslims as such do demand justice be done to them? There is no reason for arguing that it is a communal demand which should be condemned by all sections of the Legislature. We must see that all parts of the population of this land get justice and fair-play. There should not be any particular community which will monopolise all the privileges and amenities of life and if that is the case, then we must come to the conclusion that something is wrong there and that that wrong should be removed if the body-politic is to be kept sound and healthy.

Sir, if there is one section of the population that does not get justice and labours under unfair and inequitable conditions, then it is the duty of everybody concerned to do justice to that community,

so that it may, equally with the rest of the population, feel contented and happy. So far as the Communications and Works Department is concerned, you will find that the number of Mussalman contractors is very small, not because the Muslims are all inefficient people and not worthy of becoming contractors, but because they do not get that amount of sympathy and reasonable facilities to which they are entitled, for, as I have already said, the people who have already got a foothold there always try their level best to shut out all new entrants and aspirants. These new entrants have got to negotiate very difficult and almost impossible hurdles, and the result is that the number of Muslim contractors is not appreciably increasing. That is the reason why such a resolution has had to be tabled. It is not the sort of communalism that Mr. Ross ought to take exception to: it is merely communal justice that the Muslims are asking for and nothing more and nothing less. If this is called communalism, then it is a communalism of which I do not feel the least ashamed. I may go further and assert that as long as the Muslims do not get their fair share of every privilege opportunity and amenity of life that this province has to offer, they will go on agitating and agitating for them completely regardless of the fear or favour of any particular section or group of the House. I support the amended resolution, Sir.

Mr. NUR AHMED: With your permission, I wish to make a few remarks, Sir, on the resolution before the House. I had no mind to take part in the discussion but the remarks made by Mr. Ross and Mr. Birendra Kishore Roy Chowdhury have induced me to say a few words. The speaker who has just sat down has already placed before the House the sentiments of the Muslim community. Wherever a cry for justice is raised on the part of the Muslim community, it is always dubbed as communalism. Sir, the amendment which has been moved by my friend the Deputy President has practically nullified the effect of the resolution. It has provided for all the elements which should be required to be considered in the matter of distribution of contracts. The first part of his amendment is as follows: that Government should grant increasing facilities to Bengalee Muslims and Scheduled Castes to tender for Government contracts in every district; *i.e.*, the first part only requests Government to give greater facilities to Muslims to submit tenders. The second part runs as follows: that the contracts should be distributed to the various communities on a poulation basis as far as possible. It does not pin down the Government to distribute contracts on a population basis but says "as far as possible". But that is not all. It further says "compatible with economy and efficiency". These conditions are very important conditions which are no doubt kept in view by Government in the distribution of contracts, namely, efficiency and economy. The amendment requires that these essential conditions should be observed at the time

of awarding contracts. Sir, with these precautions and conditions, how can it be treated as a communal resolution? There is nepotism prevailing in these matters and if Mr. Ross desires that the present state of things should be done away with, then I do not for a moment deny the force of his argument.

Sir, the Mussalmans have fallen on evil days. With the loss of their kingdom—India—they have fallen on evil days. If Mr. Ross is a student of history, he would know how the Muslim community was deprived of their wealth, prosperity, their culture, education. History also tells how they have fallen on evil days. Many Englishmen, who could not be accused of undue sympathy towards the Mussalmans, have written saying that the Mussalmans have come to this position for no fault of theirs but that they are the victims of the policy adopted by the East India Company and the Government that succeeded the Company. I would refer Mr. Ross to the book named "Indian Mussalmans" written by W. W. Hunter, in which he will find that Mr. Hunter's deliberate opinion was: that as it was impossible for a Muslim under the Muslim rule to be poor, so it was impossible for a Muslim to be rich under the British Rule. That is an oft-quoted statement from that book. Sir, I did not expect such statement from a learned European like Mr. Ross. I can assure Mr. Ross that we do not want favour: we do not want undue advantage, because a Muslim presides over the administration of this province. But we want that justice should be done to the Mussalmans in every way. Unless the economic condition of a community is improved, the community cannot be expected to stand in the world. Injustice has been done to the Mussalmans in the past but now they have become conscious of their own rights and privileges and they want their proper share in the sphere of public administration.

I would now say a few words in reply to what Mr. Birendra Kishore Roy Chowdhury said, namely, "if contracts are given to Mussalmans it will aggravate the communal situation". I do not know how the situation will be aggravated if Mussalmans get contracts: that shibboleth is often repeated here. I appeal to my friend Mr. Roy Chowdhury to give up that sort of mentality which is increasing the tension between the two communities; it is that sort of outlook which is increasing the misery of our country. Let us combine together sinking all differences and let us look at our country—the pitiable conditions of our country and let us look at the surroundings in which we live, let us see the sufferings of our country and try to remedy it. I would request him to look upon all communities living in India from a higher plane.

Mr. W. B. C. LAIDLAW: Sir, first of all let me make it clear as Mr. Ross has done, that this is the first occasion when this group has ever taken part in a debate which involves a question of the two

great communities in this country. If we have taken part in it to-day, it is only because our daily life requires that everything should be done as efficiently as it possibly can be done. As between one supplier and another, the method by which we could get the best, as we know it, is to call for tenders and to take the lowest of all those tenderers who are known to be reliable and we know of no other way. In the country in which we sojourned before we made our lives here, I knew of no other way and there are no different communities for whom contracts are reserved. Consequently, when we see a resolution like this which definitely requires that one community should receive particular treatment on a population basis or any other communal basis, while we have the greatest sympathy for fair dealing, we have very little sympathy for the reverse. Now as regards fair dealing, if we find that one community as compared with another community is superior, it stands to reason that on account of their training, their antecedents, their whole surroundings they are qualified to do a particular job particularly well. In this connection, I may say that climate takes its part in a thing of this kind, *e.g.*, in Lancashire the climate is damp and consequently it is well suited to the spinning of cotton and nobody has suggested that cotton-spinning should be carried out on a population basis or spread over in the United Kingdom, one mill in every county. All places are not fit for cotton spinning and that is why it is done best in the district which is around Manchester. Similarly, here you take for example seamanship. The Muslims of Chittagong, their antecedents go right back I suppose, to the Arabs who navigated their *dhows* from the Arabian Sea, a thousand years ago and probably more, as far as they could go and fetched up at the north end of the Bay of Bengal. The British Mercantile Marine is manned to a very large extent by Muslim seamen who are past masters of their art the like of which is probably not to be found anywhere in the world except in other island Nations. There is no question of community there. Nobody could suggest that somebody from the centre of India should be taken on as crews on ships, although probably they have never seen ships, never even the sea, while the Mussalmans of Chittagong for generations have been on the sea and as a consequence they are the people who can even navigate ships and run the gaunflet of the bombers and the torpedoes of the present time. I just want to make our standpoint perfectly clear in this matter and it is that from the point of view of efficiency the only way of awarding or choosing between contracts is to choose the lowest quoted from among the contractors who are at the same time known to the Government and are relied upon. If as a result of that the contracts as a whole go to one community it does not matter, for it may be that one particular community may be best suited to do that work.

Mr. HUMAYUN KABIR: Sir, I would only like to make a few observations on the remarks of the last speaker. It is true as he says

that generally speaking contracts and services and other emoluments should follow efficiency, but I think it is equally true that efficiency is in many cases the resultant of many factors. It may also be that efficiency is often only one of the considerations in making appointments or giving contracts. In very many cases, we find that people who have been placed in a particular situation or circumstance, develop a particular aptitude. I would only refer the honourable member who has just spoken to the history of his own country where we find that as a result of tariff protection at certain periods, as a result of Navigation Acts at other periods, his people have been given exactly that sort of protection which this resolution also seeks to provide. It is true that after a certain community or group have enjoyed certain privileges, they develop aptitude of a special order. But unless they are given this opportunity and protection, which I think is the one argument which is on different occasions advanced for protecting infant industries,—they cannot develop that sort of special aptitude. I think, Sir, this resolution may be regarded as being in the nature of giving help to an infant industry. Protection in the sphere of contracts and other things should be extended by Government to members of the different communities. The resolution in the amended form is extremely mild. It has many qualifications, "as far as possible", "compatible with economy" and "compatible with efficiency." I think, these are the three safeguards which ought to meet even the objection of my friends to the left. The one point on which I differ from the last speaker is that since in the past it has been found necessary by practically every community and country of the world that they require special safeguards and protection for a certain period in order that they may come up to a certain level, the Bengalee Muslims and the Scheduled Castes may also demand that protection. Sometimes for no fault of theirs, sometimes for crimes perpetrated on them of which they themselves are not guilty, and sometimes for the faults of their forefathers, in a word, for various factors over which the present generation had no control and for which the present generation is not responsible, the Muslims and the Scheduled Castes of Bengal are not in a position to compete with equal efficiency with the highly developed community to which my honourable friend has the honour to belong, specially when we remember that this efficiency is itself the result of long periods of legitimate and illegitimate help and support from the powers that be.

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, I would have very much liked if my honourable friend had not moved this resolution without ascertaining beforehand what Government has already done to give equal facilities to every community to submit its tenders. Sir, ever since this Government assumed charge, they have very carefully examined this question. There is no denying the fact

that the number of contracts which actually go to Muslims is small. Sir, with a view to give every community an opportunity to submit tenders, we in our approved list of contractors are trying to have both the communities represented on a fifty-fifty basis: something similar or rather on the line of the Service ratio rules. As a result of that, during the last few years, I may inform the House that there has been a steady increase in the number of Muslim contractors throughout the province. It is also an admitted fact that the majority of Muslim contractors are unfortunately financially deficient in comparison with the contractors of other communities. Sir, with a view to give them better facilities to compete with other communities, we have classified the contractors according to the amount of work which they can take up at one time; that is to say, in our approved list we have contractors who can take up work costing up to Rs. 5,000, or Rs. 10,000, or Rs. 25,000, or Rs. 50,000 or a lakh of rupees, and above. The idea of this classification was that a poor contractor would not be at a disadvantage to compete with a well-to-do contractor in undertaking a work the total cost of which would not come to, say, Rs. 10,000, or Rs. 15,000. The contractors in the approved list have to submit their tender on the total estimate. The idea is to find out who tenders the cheapest, thereby effecting a good deal of economy. While selecting the contractors the question of economy only is kept in the forefront, and I believe this is nothing new that the Government has adopted. That is the policy which has been followed all along in the past. It is true that in the past in certain cases, officers had the liberty of rejecting the lowest tender when they thought that the next man, that is the man who quoted the next higher rate, would be more suitable. But, Sir, we have now taken away that power of discretion from the officers, because of so much complaint in the country that these officers did not make the selection to the best advantage of Government. Sir, I am surprised to find that my friend Khan Bahadur Naziruddin Ahmad made a sweeping statement that contracts are distributed not on consideration of merit of the tenders but on other considerations (Khan Bahadur NAZIRUDDIN AHMAD: On 5 per cent. discount) and not to the lowest tenderer. I hardly expected this from a man of his ability and judgment. I am sorry to find my friend Mr. Abul Quasem also stating that the contractors are prejudged. I would appeal to my friends not to make such vague and general charges. That helps nobody. I can assure the House that since we have been in office things have improved a great deal. It is admittedly a difficult task we have undertaken and I expect help and co-operation from every quarter.

Coming back to the practice of accepting lowest tenders, I believe it is also followed in the District Boards and Municipalities. I would like to know how far my friend Mr. Nur Ahmed has succeeded in giving contracts on the population basis in the Chittagong Municipality.

Now, Sir, while we have stuck to the principle of accepting the lowest tender, we have been very careful to see that there is no unfair rate-cutting. I may inform the House that before we adopted this policy of having an approved list, we made an experiment by calling for tenders, and could you believe, Sir, that from one Calcutta division, we got no less than 60,000 tenders and the highest percentage of reduction on estimated rate offered was 45 per cent.! Surely that was a proposition which it was impossible for Government to accept and unless the party who tenders is known to the department, it is extremely difficult for the department to accept such a tenderer. One who offers 45 per cent. certainly does not know his job. Our experience of working according to our present system has so far been fairly successful, and as I have already said, it has increased the number of Muslim contractors. But, Sir, I must state the difficulty which the department is experiencing in finding out who is to be considered a Muslim contractor. Are we to depend on the name of the firm? Or are we to take into consideration the community to which the capitalist belongs or the engineer who runs the show? What are we to do in the case where we find there are two capitalists, one Hindu and one Muslim? Similarly, we find extreme difficulty in the case of Scheduled Castes, because the title does not always show the caste. It is easier in the case of voters, because they are classified as such in the voters' list. Suppose, a contractor comes to us and says that he is a contractor from the Scheduled Castes, we have nothing to test the correctness of his statement. On the other hand, Sir, there are the big Calcutta firms of contractors. How are they to be classed or in which community should they be included?

Sir, these are the various difficulties which the department is experiencing—the difficulty of finding out the caste or the community of the contractors. Besides, Sir, in the districts specially, we have been experiencing a good deal of difficulty to get Muslim contractors. We have been in touch with almost every District Board to give us the names of more Muslim contractors who may be included in the approved list. Sir, if the contractors are earnest, it would be up to them to come forward to have their names enlisted as approved contractors.

I am glad that my friend does not want to press the original resolution. It would have placed Government in a very difficult position, because we have no district staff and the contracts are not given on a district basis. We have our own Divisions and Subdivisions and lists of contractors are kept in each Division. Sir, it would not be possible to call for separate tenders from different communities, because that would only increase the total cost. When a particular work can be done most economically by one contractor, irrespective of the community to which he belongs, he should be entrusted with the work. That would be the best procedure from the point of economy and according to the present Account Rules, I do not think it possible

to make that distinction. Sir, we cannot deviate from the principle of the lowest rate. I can, however, assure the House that I have every sympathy with the spirit of the amendment which has been moved by the Khan Sahib Mr. Abdul Hamid Chowdhury and Government will do its best to see how far they can give effect to the spirit of the amended resolution. I hope, Sir, that will satisfy my friends.

Khan Bahadur ATAUR RAHMAN: Sir, I never thought that this very simple resolution of mine would shake the whole House, nay, even the Lancashire mills. It is unfortunate that many honourable members have taken the view that this resolution has been moved in a spirit of communalism. I would rather say that it is out of a spirit of socialism and not out of a communalism that I have moved this resolution. Mr. Ross says that contracts should always be given to the best man, but who is the best man and how to judge it? Mr. Ross knows very well that in all the mercantile offices and in the mills run by his community round about Calcutta, the entire staff is composed of a certain community and the other communities find in extremely difficult to get an access there. If any man of the other community goes to the *Burra Babu*, possibly the door will be shut against him. If Mr. Ross had, used his own experience in ascertaining the fact he would have certainly agreed with Khan Sahib Abdul Hamid Chowdhury that the Muslims of Bengal should have some privilege of getting some contracts from Government to earn their livelihood like their fellow-brothers of other communities. Similar is the case with the Scheduled Castes and I am very glad that Khan Sahib Abdul Hamid Chowdhury has moved his amendment which I accept. Sir, I have not moved this resolution with the idea of securing for the Muslims any special favour, but to get simple justice. We want only justice and not favour. A few years ago you would have scarcely found two per cent. of Muslims in Government offices, not to speak of the commercial firms. Even now they are not to be found at 1 per cent. in those firms. We cannot claim that as a matter of right, for they will always trot out the excuse of efficiency and many other things. But I may tell them that if they had provided Muslims they would not have found them inefficient. Similarly, if the Communications and Works Department and other departments of Government give contracts and employ Muslims, I am sure they will never have many occasions to complain on the score of inefficiency. Our friend Mr. Laidlaw has said that in England they never think of anything but efficiency and that there is no question of the case of any community being specially considered in giving contracts. Will he explain why in the Bengal Legislature so many Europeans have been given seats and why this undue weightage has been given to them? It is exactly the same principle that we want the Government to apply in this case.

The time will come, I am sure, when in respect of the European firms also there will be a clamour that since these firms exist on the patronage and good-will of the total population of Bengal and not on that of any particular section of the population, they must yield to the demand for proportionate appointments and contracts being given to those people also whose claims have been ignored hitherto. In my resolution I did not refer to any particular department. I know of certain cases in which a Dispensary Committee of a Government Hospital was considering tenders and they selected a day on which most of the Muslim members could not attend on account of a certain Moslem festival, simply for the purpose of patronising their own Hindu friends who were supplying rations to that dispensary for the last 20 years. It is this sort of nepotism that we want to get rid of: we do not want to introduce a new type of nepotism as is apprehended by Mr. Ross. That is the reason, Sir, which has prompted me to move this resolution before the House.

I had never intended to be communal; as a matter of fact, Sir, I have never been a communalist. But I would not be ashamed to be a communalist if I am dubbed as such for fighting for the cause of the members of my community who have been put to so much difficulty by various other communities in the country and been brought to the present deplorable stage. If for that I am called a communalist, then I would not be at all sorry for it, Sir. With these few words, I accept the amendment moved by my friend Khan Sahib Abdul Hamid Chowdhury. In conclusion, I must convey my sincere thanks to the Hon'ble Maharaja of Cossimbazar for the sympathy he has shown to the Muslim community and for the action that he has already taken in the direction suggested in this resolution. Sir, I was not aware that the matter had improved so much in the meantime. Indeed, the apprehensions that I had are now removed and if this amended resolution is accepted by Government, the matter will be further improved. With these few words, I support the amendment of Khan Sahib Abdul Hamid Chowdhury.

Mr. PRESIDENT: The resolution before the House is: that the Council is of opinion that the Government contracts should be given to Bengalee Muslims on their population basis in various districts after properly advertising for tenders.

Since which the following amendment has been moved by Khan Sahib Abdul Hamid Chowdhury that—

in this Resolution for all the words beginning with "the Government contracts should be" to the end, the following be substituted, namely, "Government should grant increasing facilities to Bengalee Muslims and Scheduled Castes to tender for Government contracts in

every district, and that the contracts should be distributed to the various communities on a population basis, as far as possible, compatible with economy and efficiency."

The question now is that the amendment be made.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is the amended resolution, namely,—

"This Council is of opinion that Government should grant increasing facilities to Bengalee Muslims and Scheduled Castes to tender for Government contracts in every district, and that the contracts should be distributed to the various communities on a population basis, as far as possible, compatible with economy and efficiency."

(The amended resolution was agreed to.)

Mr. NUR AHMED: I beg to move that this Council is of opinion that the Government of Bengal be requested to draw up and put in operation a suitable scheme for the promotion of communal harmony in the province of Bengal as early as possible.

Sir, with a very heavy heart I move this resolution before the House. Sir, it is a pity that after living for centuries together—Hindus and Muslims—I have to bring in a resolution like this to-day. In 711 A.D. the Muslims came to this sub-continent. The Muslims made this their place of birth since then. They have made their wealth and have lived in this land with other communities with peace and harmony. They ruled this great sub-continent for centuries together. Then there was no occasion for communal disturbance: there was peace and harmony and good feeling and tranquillity in the province. We, the Hindus and Muslims, the principal communities of Bengal, have been living in this province for centuries, as inhabitants of the same land. The relation between the two communities were very cordial and they lived as good neighbours, sharing each others' sorrows and joys and never quarrelled so much. Both exercised a good deal of mutual tolerance in their dealings. But those days are gone and the situation to-day is very critical throughout India. In Dacca communal trouble is going on to-day and we do not know how long it will continue. My humble appeal to the honourable members of the House is to consider this question from all points of view and to find out what is the root cause of this trouble—the cause which has promoted this feeling among the two major communities of this province. Sir, this question should be considered and pondered over by every Indian, by every Bengali in their heart of hearts. After living for more than one thousand years, to-day we are in this position—we should consider why we have become brutes? In the past, we used

to look upon each other as friends, but to-day we look upon each other as worst enemies. Why this is so—this question we should think and ponder. If we want ordered progress of our country we should see that peace and harmony prevail and the different communities live together in peace and harmony. From every point of view, if you want to have political advancement of the country you should improve the moral, intellectual and economic culture of the people.

Sir, why to-day are we, Indians, going against the best interests of our own country? It is a question which requires very deep and careful consideration. Some causes are ascribed for the condition which has brought about this situation. Sir, there are differences of opinion, among the great politicians, among the great statesmen and among the patriotic Indians. It will take time for the present conditions to disappear. Sir, I think the House will be at one with me when I say that the cause of this present situation is the want of goodwill, want of mutual tolerance and want of that outlook on life which should induce one man to look upon his fellowmen as his friend, his goodly neighbour. Sir, no constitution however perfect it may be, no agreement however much it may give full rights, special rights and privileges to a community; no negotiation, nothing can produce that feeling which is a great desideratum, which is a condition precedent for peace and harmony. Sir, what we find is disturbance to the peace on even such trifling matter as the slaughter of a cow here and music before a mosque there; a *tajia* procession obstructed by a *peepal* tree resulting in terrible disturbances among those concerned, also among innocent neighbours, and among the people at large who have been living in peace for years together. That is so because, I think, we have not cultivated the sort of feeling. It is unfortunate for the Muslims; it is unfortunate for the Hindus that they could not understand each other though they are living together for so many centuries in the same province, in the same district and in the same village together. Sir, the outlook of the Muslims is misconstrued. A Muslim by his religion is bound to look upon all the Muslims throughout the world as his brother. That is the fundamental teaching of his religion which a Muslim cannot forget for all his life. That is the reason why the other communities misunderstand them whenever anything has happened to Muslims in another part of the country or the world when the Muslims here in Bengal, nay, in India, feel for it. But, Sir, that is not Pan-Islamism nor is it communalism though it is misconstrued as such. That is the teaching of his religion. Let me cite the instance of Halida Adib Hanan, a cultured Turkish lady who fought by the side of Kemal Ataturk and who has written a book entitled "Inside India", after her visit to this country. She mentions a very interesting incident she came across while touring in India. She went to the house of one Abdur Rahman Quereshi at Peshawar. The latter went to Turkey and fought

for the liberation of Turkey, though unfortunately subsequently he was murdered. He was known to Halida Adib Hanan. She went to the house of the late Abdur Rahman Quereshi, as the instinct of Islam impelled her to feel that the late Abdur Rahman Quereshi's sisters and brothers whom she found in his house were her own. That is the statement made by a cultured lady whose nation is said to have abolished the *Khilafat* movement. So, I appeal to the European members of this House and to the Hindu members that Mussalmans cannot be called communal. Sir, I appeal to them that if they go into the history of Islam they will find that Mussalmans never go against the place of their birth far less against members of other communities. At the present time the Chinese Mussalmans are fighting with their Buddhist brothers against the Japanese aggression. The other day the Polish Muslims organised a troop to fight for the Poles against the Nazi aggression. History will not furnish a single instance where Muslims went against the country of their birth. So, the impression that Muslims are communalists and are Pan-Islamic and do not look upon their land of birth as their own—these all are false theories based on wrong impression and that is the reason why a Hindu thinks that Muslims are his foes and are living in this country without having any interest here. I ask them to look upon the Muslims as their own neighbours as Indians, and if they behave like that, they will see that Muslims are as good as any other community.

There is another matter to which I want to draw the special attention of the House and that is that communal harmony must be restored at any cost and I think human ingenuity cannot fail to find out some solution. That solution lies in the heart of man, not in contracts nor in giving other things. My suggestion to the House is that we should cultivate feeling of good-will, we should cultivate feeling of mutual help. We should try by our speeches, by our writings, and in every possible way to spread that feeling of good-will among the masses. We must recognise the just claims of other communities. We must think that we have to live in this land together.

Sir, the time is short and the resolution is a very important one. So, with these few words, I move this resolution.

Mr. PRESIDENT: Resolution moved: that this Council is of opinion that the Government of Bengal be requested to draw up and put in operation a suitable scheme for the promotion of communal harmony in the province of Bengal as early as possible.

Alhadj Khan Bahadur SHAIKH MUHAMMAD JAN: Mr. President, Sir, I wholeheartedly support the resolution moved by my friend Mr. Nur Ahmed, but before asking the Government to do something for promoting communal harmony, we should ourselves practise

toleration in our daily dealings with one other, we should be considerate towards the opinions of others and give them due credit for their opinions and for their sincerity and honesty. It is a matter of common knowledge that without amity and mutual understanding there cannot be peace in Bengal or in India for the matter of that. No country in the world, however great in manpower and rich in material resources, can make any progress economically or politically, unless there is complete national unity among its people. But, Sir, it is one thing to desire and admire, to indulge in wishful thinking and to entertain pious hopes, and it is quite another to play our part, however humble it might be, to implement our desire and to do something tangible in this connection. Sir, I may ask as to how many of us, Hindus and Muslims including myself, are prepared to part with our petty privileges and temporary positions for the sake of the larger interest of our Motherland and of the permanent issue, namely, the emancipation of our country from foreign domination which is responsible for the wretched condition of the people of India, as also of Bengal? We are, so to say, mere hewers of wood and drawers of water here in our own land. I do not blame the British Government for not accepting us as full and active partners in the British Commonwealth of Nations as is professed by them. Because every responsible Englishman connected with India has from time to time offered us Dominion Status only for the asking, if we could compose our differences. But it is the selfishness and personal jealousies of some of our leaders that stand in the way of the realisation of this dream of ours.

I may remind the House that in the Second Round Table Conference, probably in 1933, the late Sir Mian Muhammad Shafi had succeeded in bringing about a formula without joint electorate acceptable to the Hindu as well as to the Mussalman representatives and it was the Sikh delegates who shattered all hopes of a mutual settlement by demanding one more seat at the expense of the Muslims, although the Hindu leaders of the Punjab were prepared to concede one seat. The insistence of the Sikhs on the Muslim seat exploded all our hopes of a mutual settlement and thus the Communal Award became inevitable.

Now, Sir, in the year of grace 1940, when the British Government was too willing to part with real power, Mr. Jinnah failed us, supported by the Muslim leaders of Bengal. He would not be a party to any communal settlement unless it was "*Pakistan*" which was not only unacceptable to the Hindus but also to the majority of the Mussalmans of India. Except Bengal, three Muslim majority provinces, namely Sind, the North-West Frontier and the Punjab, are opposed to it. In the Frontier Province, which is a Congress province, *Pakistan* is out of the question. As regards Sind, in spite of the best efforts of Mr. Jinnah and his friends, he could not succeed in establishing a Muslim League Government there even in name. Sir Sikandar Hyat

Khan has more than once rejected the *Pakistan* proposal of Mr. Jinnah. It may be true that *Pakistan* is a propaganda and it may not come into being, because both the Hindus, and also the majority of Mussalmans in India are bitterly opposed to it. Moreover, in Bengal and the Punjab, *Pakistan* is absolutely impossible, because the two communities are evenly divided and one community cannot dominate over the other in these two provinces. Of course, in Sind and in the Frontier Province it is possible if the people there so desire. But if that contingency arises, what will prevent the Hindus, numbering say, 10 to 15 lakhs, from migrating from those provinces to other provinces. But what about the 4 crores of Muslims of the other non-Muslim provinces? Will they be prepared to leave the fertile land of India? I may say in this connection, that in spite of his great love for *Pakistan* Mr. Jinnah has not been able to leave the province of Bombay which is a non-Muslim province. The one effect of this *Pakistan* cry, or I may say this political stunt, is that it will give an opportunity to the British Government to refuse Self-determination to the people of India for which they are fighting. Most provinces are at present being governed by the Governors with the help and advice of the self-appointed advisers who carry on the orders of the provincial dictators, while many eminent leaders of international fame and leaders of great public service of whom any country could be proud are rotting in jails. Many erstwhile Ministers and Chief Ministers, Parliamentary Secretaries, Speakers, Deputy Speakers and various other people are at present undergoing rigorous imprisonment under the Defence of India Rules.

Sir, another effect of this two-nation theory—one Nation as represented by the Congress demanding Independence, and another Nation as represented by those making speeches obstructing the path of progress and openly declaring that India is not fit for Democracy—is that India has forfeited the sympathy of the greatest Democratic Nation of the world, namely, United States of America.

Mr. PRESIDENT: The honourable member may continue his speech on the next non-official business day.

The Council stands adjourned till 2-15 p.m. on Monday, the 7th April, 1941.

Adjournment.

The Council then adjourned till 2-15 p.m. on Monday, the 7th April, 1941.

Members Absent.

The following members were absent from the meeting held on the 4th April, 1941:—

(1) Mr. Kader Baksh.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Mr. Shrish Chandra Chakraverti.
(4) Mr. Hamidul Huq Chowdhury.
(5) Mr. Lalit Chandra Das.
(6) Mr. Bankim Chandra Dutt.
(7) Mr. Narendra Chandra Dutta.
(8) Mr. Kamini Kumar Dutta.
(9) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(10) Mr. R. W. N. Ferguson.
(11) Mr. Kanai Lal Goswami.
(12) Mr. Mohamed Hossain.
(13) Khan Bahadur Syed Muhammad Ghaziul Huq.
(14) Khan Bahadur M. Abdur Karim.
(15) Maulana Muhammad Akram Khan.
(16) Rai Bahadur Brojendra Mohan Maitra.
(17) Mr. Naresh Nath Mookerjee.
(18) Dr. Radha Kumud Mookerjee.
(19) Mr. Ranajit Pal Choudhury.
(20) Khan Bahadur Mukhlesur Rahman.
(21) Dr. K. S. Ray.
(22) Mr. Sachindra Narayan Sanyal.
(23) Mr. W. F. Scott-Kerr.
(24) Khan Bahadur M. Shamsuzzoha.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Monday, the 7th April 1941, at 2-15 p.m., being the twenty-fifth day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Revision of the scale of pay of the clerks of the Jail Depot.

69. Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) the present scale of pay of clerks working in the Jail Depot, Calcutta;

(*b*) the reason for such a low scale of pay in this department;

(*c*) whether clerks of this department get any commission on the sale of jail products;

(*d*) if so, what has been the average commission earned by each clerk per month during the last three years; and

(*e*) whether the Government propose to revise the present scale of pay of clerks in the Jail Depot; if so, when; if not, why not?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Khwaja Sir Nazimuddin): (*a*) Rs. 30—30—35—2/2—55.

(*b*) The scale of pay was revised on the recommendation of the Ministerial Officers' Salaries Committee of 1920-21 which took into account the fact that these clerks received a commission on sales.

(*c*) Yes.

	Rs.	a.
(*d*) 1938	4	2
1939	4	0
1940	7	14

(e) Government have before them at present no proposal for a further revision of pay. Since the present scale was fixed there has been no general revision of pay upwards.

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Arising out of (*b*), will the Hon'ble Minister be pleased to state whether it is a fact that these clerks have very little to do with the sale?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice, Sir.

Bhati area of Mymensingh.

71. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(*a*) whether his attention has been drawn to the statement made by the Hon'ble Minister in charge of the Agriculture Department, in reply to question No. 37 of the last Council Session (on 5th of August, 1940), that a large tract in the Bhati area of Mymensingh district has gone out of cultivation owing to ravages of early flood and water-hyacinth;

(*b*) whether any relief was given to the tenants of the area by suspending and remitting the rents of the areas that have gone out of cultivation;

(*c*) what action if any, does the Government propose to take for giving relief to the *raiyats* and landlords of the area;

(*d*) whether it is a fact that in spite of the pitiable condition of the tenants of this area, the rents of *raiyats* of Khasmahal lands (particularly of Ashtagram, Nikhli and Bajitpur) were enhanced exorbitantly in the course of last *jamabandi;* and

(*e*) whether the Government consider the desirability of starting fresh *jamabandi* proceedings for reducing the rents of the *raiyats* of this area, or in the alternative allowing abatement of the enhanced portion of rent?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Yes; but the attention of the honourable member is also drawn to the answer given on the 31st July, 1940, on the floor of this House, to his question No. 29.

(*b*) Agricultural loans were distributed among the tenants as a relief measure. In the *Khasmahal* estates and temporarily settled

private estates under *Khas* management in the area, abatement of rent was also allowed in cases where the tenants applied for surrender of their holdings which had gone out of cultivation.

(*c*) A local enquiry has been made by the Settlement Department but as it is not complete, a further enquiry will be held when *boro* is transplanted and jute sown, these being the principal crops in the area. The question of relief, if any, to be granted to the tenants, will be considered after the report of the further enquiry is received.

(*d*) No; during the last land revenue settlement operations in the area, adjustment of rent was made according to correct classification of lands. In 3 Crown and 1 temporarily settled private estates under *Khas* management there was a slight enhancement of rent made before the 27th August, 1937. In 13 other Crown estates and 25 temporarily settled private estates under *Khas* management a slight enhancement of rent was made at the time of *jamabandi* made after the 27th August, 1937, but these were later on reduced to the former rates in accordance with the provisions of section 75A of the Bengal Tenancy Act.

(*e*) The question whether any fresh *jamabandi* should be made or any other action should be taken, will be considered after the report of the further enquiry referred to in reply (*c*) above, is received.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state at what rate the enhancement was made in 1937?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Arising out of (*c*), will the Hon'ble Minister be pleased to state whether the lands which had gone out of cultivation were assessed to any rent? If so, at what rate?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Certainly lands which had gone out of cultivation were not assessed to any rent; they could not be assessed.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister sure of the position, or he says from his presumption?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I think I am sure.

Appointment of non-Bengalis under Government of Bengal.

72. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Finance Department be pleased to state if it is a fact that many non-Bengalis have been appointed in important and responsible posts in Bengal since the inauguration of Provincial Autonomy in Bengal?

(*b*) Will the Hon'ble Minister be pleased to lay on the table a list of the non-Bengalis appointed in the public services under the Government of Bengal during the years 1937 to 1941 (up to 28th February), with their names, qualifications, pay, the name of the respective posts, and special reasons, if any, for which they have been appointed in preference to candidates from Bengal?

(*c*) Do the Government propose to lay down a strict rule that in future no non-Bengali should be appointed except in very exceptional cases and that also for very special reasons?

MINISTER in charge of the FINANCE DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): Steps are being taken to collect the information required.

Mr. LALIT CHANDRA DAS: Sir, question (*c*) has not been answered.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, question (*c*) has not been answered because the other questions have not been answered. I intend to answer all the questions together.

Mr. LALIT CHANDRA DAS: So far as question (*c*) is concerned, it has nothing to do with the collection of names of non-Bengalis who have been appointed in the public services, and whether Government propose to lay down strict rules that non-Bengalis should not be appointed except in exceptional cases and that also for very special reasons. It does not require collection of statistics. The answer may be given at once.

Mr. PRESIDENT: The Hon'ble Minister wants to answer all the questions together.

Mr. HUMAYUN KABIR: Sir, I gave notice of a short-notice question on Thursday or Friday last.

Short-notice Question.

Rai Sahib JOGENDRA CHANDRA ROY: Sir, may I put my short-notice question to the Hon'ble Home Minister?

Will the Hon'ble Minister in charge of the Home Department be pleased to give the latest information regarding the recent Dacca riot on points detailed below:—

(*a*) total number of deaths, injured, and arrests made up till now, giving separate details for Hindus, Muslims and other communities;

(*b*) how many on the casualty list were the results of police firing;

(*c*) origin of the riot;

(*d*) probable estimate of the value of properties destroyed;

(*e*) steps taken by the Government to mitigate the sufferings of the people affected; and

(*f*) if the situation is now under control?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The latest information available is as follows:—

(*a*) Deaths—35: Hindus, 10; Muslims, 24; other castes, 1.

Injured—Total, 163: Hindus, 58; Muslims, 102; others, 3.

Total number of arrests, 419: Hindus, 249; Muslims, 170.

(*b*) Four killed and two injured.

(*c*) This has not yet been finally established.

(*d*) I have no information.

(*e*) I must ask for notice of this question.

(*f*) I have no ground to hope so.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether by now life and property in Dacca have been made secure?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Every attempt is being made to ensure the safety of life and property. As a matter of fact, life and property is safe, but it is unfortunate that stray assaults are still continuing.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether schools and colleges have reopened and whether students are attending the schools and colleges and whether the litigant public are also attending the civil and criminal courts?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I ask for notice.

Adjournment Motions.

Mr. PRESIDENT: I have received two notices of motions for adjournment—one from Mr. Kamini Kumar Dutta, and the other from Mr. Lalit Chandra Das.

The motion of Mr. Kamini Kumar Dutta runs as follows:—

"This Council do now adjourn its business for the purpose of discussing a definite matter of urgent public importance, namely, the situation arising out of the burning and looting of the houses of the Hindu residents in a large number of villages exceeding 30 in number comprised in Raipura and Shibpur thanas in the district of Dacca and of Hindu shops in the bazars in the same area from April 1 to April 4, 1941, and of the complete failure of the police and the authorities concerned to prevent these outrages committed in daylight by organised mobs and to give any protection to the oppressed Hindus and the consequent evacuation of the Hindu residents from the affected area and taking refuge in an Indian State, namely, the State of Tripura outside British India, and failure of the Government to take any measure of protection for the Hindu residents of that area."

The motion of Mr. Lalit Chandra Das is as follows:—

"This Council do adjourn its business to discuss a definite matter of urgent public importance, namely, the failure of the Government in giving due protection to the lives and properties of non-Muslims in the villages of Raipur, Haripur, Meratoli, Serampur, Methikandi, Brahmandi, Radhaganj Bazar, Rahimabad, etc., in all about 40 villages within the subdivision of Naraingani in the district of Dacca, where as from the beginning of this month news whereof reached here yesterday of uncontrolled acts of organized loots, arson, plunder, forcible conversion to Islam, outraging the modesty of Hindu women, with cases of deaths and suicide have gone on with the result that several people of the localities have left their hearths and homes and crossed over to Tippera and many thousands of whom again left British India and sought the protection of the Maharaja of Tripura and taken refuge in Agartala."

Mr. PRESIDENT: May I enquire whether Mr. Kamini Kumar Dutta has the leave of the House to move his motion? Is there any objection?

Mr. MESBAHUDDIN AHMED: I object, Sir.

Mr. PRESIDENT: As there has been objection, I would request those members who are in favour of leave being granted to Mr. Dutta to move his motion, to rise in their places.

(Some members then rose in their places.)

As I find that not less than 13 members have stood up for leave being granted, the honourable member is informed that he has the leave of the House to move his motion.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Before you give your ruling, Sir, may I make one submission?

Mr. PRESIDENT: Leave has already been granted by the House for the moving of the motion.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I was going to submit one thing. This important matter was discussed in connection with the adjournment motion that was moved on the 31st March, 1941. (Cries of "No, no.")

Mr. PRESIDENT: This motion relates to the alleged occurrences in the district of Dacca since the 1st of April, 1941, and it is altogether a new matter. To-day may be the last day of this Session. So, the motion for adjournment may be taken up at once.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I make a suggestion, Sir? The Bengal Local Self-Government (Amendment) Bill has only one clause left, and this may be disposed of first.

Mr. PRESIDENT: But the one difficulty with which the Chair is confronted is that nobody knows when His Excellency the Governor's order for prorogation will come. If the Leader of the House can assure the Chair that the Council will not be prorogued to-day, then I may take up the adjournment motion to-morrow. My experience is that prorogation order is sometimes given one or two hours before the closing of the last day's meeting.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, if you take up the adjournment motion, the order of prorogation will not come.

Mr. PRESIDENT: The adjournment motion will be taken up to-day, but if the House sits to-morrow, and if the Hon'ble Leader of the House gives me an assurance that the order of prorogation will not come to-day, then, I can take up the adjournment motion to-morrow.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I am prepared to give that assurance.

Mr. SACHINDRA NARAYAN SANYAL: Sir, I gave notice of a special motion——

Mr. PRESIDENT: Order, order. Mr. Dutta's motion for adjournment will be taken up to-morrow (the 8th April, 1941) at 2-20 p.m.

The Bengal Local Self-Government (Amendment) Bill, 1941.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Bengal Local Self-Government (Amendment) Bill, 1941, as settled in the Council, be passed.

Mr. PRESIDENT: Motion moved: that the Bengal Local Self-Government (Amendment) Bill, 1941, as settled in the Council, be passed.

Mr. W. F. SCOTT-KERR: Mr. Presilent, Sir, I rise to support the motion that the Bengal Local Self-Government (Amendment) Bill, 1941, as settled in the Council, be passed. My party are in full agreement with the principles enunciated in this Bill. We feel that it is necessary to expedite proceedings in regard to election disputes. Perhaps it is only unfortunate that the situation that prevails to-day was not anticipated when the original Bill was drafted, because in that event the present amending Bill would not have been necessary.

While my party are in favour of the Bill, we must again protest against the way in which the Bill has been presented to this House. The House is aware that the Bill originated here. The Bill having been drafted and introduced, the Coalition Party got busy with it and found that on many points they did not see eye to eye with Government; a number of amendments were drafted and fresh clauses added. Then, there was disagreement between Government and their party on many points, and these amendments were again amended. They were then moved on the floor of the House and in the course of moving, on several occasions verbal amendments were made to the amended amendments. I submit, Sir, that in many cases the House did not have an opportunity of considering these amendments as carefully as would have been really necessary. On one occasion, Sir, as you remember, the Opposition Party discovered an error in one of the Coalition Party amendments and the Government admitted that a mistake had been made. The House was adjourned and went into a huddle while this amendment was discussed by all parties. A quarter of an hour later, some sort of an agreement was arrived at and that amendment was again redrafted and passed without half the members even having seen it. Nobody had had enough time to consider it properly. Sir, I wish to emphasize that legislation is a very important matter. No doubt,

members realize that the inclusion or the exclusion of small words, even the misplacement of a comma may alter the whole meaning of a clause or a sub-clause. Sir, the people of the province have to abide by that legislation and the courts have to administer it and, to our mind, Sir, it is wrong to pass such amendments hurriedly without giving them very, very careful and meticulous examination. I submit, Sir, that if this Bill was given to an expert draughtsman as it emerges from this House he could make it far simpler and about half its present length without altering any of its principles at all. We all know that the law is an ass, but, it is surely unnecessary to reduce it to the status of an imbecile.

My remarks till now have been purposely of a destructive nature. I should now like to offer a constructive suggestion in regard to Bills of this nature, especially when they are introduced in this House for the first time. We all know that sooner or later the Government Party and Government have to come to some agreement between themselves over the various clauses in the Bill. There have to be compromises and one or the other side has often to give in on a matter of principle. My suggestion, Sir, is that the discussion on the fundamental principles of the Bill and also in regard to the detailed clauses should take place while the Bill is being drafted and before it is introduced into the House. It is unusual for the Government Party to vote against Government. So agreement between them on the details of a Bill should be reached before the Bill is introduced. The House would then only have to consider Opposition amendments, and these would be on a matter of principle which would be discussed on the floor of the House. It should not, to my mind, be necessary for us, Sir, to listen to the arguments between two parties on the same side and have to consider so many Coalition Party amendments to Bills of this nature during the passage of the Bill through the House.

As regards drafting amendments, the less said about them the better. It is quite obvious to anybody, Sir, that these drafting amendments should not be necessary if the Bill is properly drafted in the first place. But when a Bill is cut up, clauses transposed and altered pieces put in here and taken out there, the sequence of the Bill must necessarily go awry, and furthermore, there are very great chances of ambiguity being introduced into the Bill itself.

Sir, that is all that I have to say, and I should like to impress upon Government that we consider this a matter for very serious consideration, and we feel that the present procedure is capable of considerable improvement.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I also rise to support the third reading of the Bill, but in doing so I must echo the sentiments which have been so ably expressed by Mr. Scott-Kerr from the

European Benches. I found there were serious defects in the Bill and we have done everything that could be done by a party which is supporting the Government, at short notice and without sufficient materials and sufficient assistance in their hands. You will be pleased to see, Sir, that the proposed section 18B has had to be thoroughly redrafted and sub-clauses have had to be inserted into the text of the Bill on the floor of the House. With regard to proposed section 18D, in sub-section (*2*) thereof, there were serious mistakes in the Bill and I proposed amendments to rectify those mistakes, though I did not draw the attention of the House to those serious mistakes. In view, however, of the sad state of affairs just now referred to by Mr. Scott-Kerr, it will be my duty to disclose the serious mistakes that had crept into the Bill.

You will be pleased to find, Sir, that in sub-section (*2*) of the proposed section 18D, in clauses (*a*) and (*b*), there were two significant passages. In referring to certain corrupt practices, clause (*a*) referred to "corrupt practices mentioned in the *report*," and in clause (*b*) "corrupt practices mentioned in the *said report*". I humbly draw the attention of the House through you, Sir, to the fact that there are no "reports" anywhere to be found or even suggested within the text either of the original Act or of the Bill. The word "report" was absolutely unrelated to anything in the context and was unmeaning. Naturally, I was very curious to know where this thing had been taken from. I discovered that this was taken from sub-section (*2*) of section 47 of the Calcutta Municipal Act. The expressions "corrupt practices mentioned in the report" and "corrupt practices mentioned in the said report" have been copied *verbatim* from that Act. I have also carefully gone through the relevant portions of the Calcutta Municipal Act. I find there is no mention of any "report" in that Act. The error had crept into that Act in 1923 from some other source. So, I had to search deeper for the source. I then discovered that these passages were taken from Parliamentary Practice. I have, with great difficulty, traced the errors to their source. I find in a text-book on elections by Blair and Chapel, at page 137, that if an election petition is heard, the Judge is to make a "report" about corrupt practices indulged in on a large scale. This is required under certain Acts—the Parliamentary Elections Act, 1868, as amended by the Corrupt Practices Act, 1883. So, the mischief started there. The expression "corrupt practices mentioned in the report" has a clear meaning in England, but has no meaning in Bengal. The draftsman who drafted the Calcutta Municipal Bill simply took these passages from the Parliamentary Rules without at all caring for their applicability to the Calcutta Municipal Bill and he successfully, though unconsciously, hoodwinked the Legislature of 1923. This was again blindly copied *verbatim* by the draftsman of the present Bill. You will be pleased to note, Sir, that similar clauses are to be

found in the Bengal Legislature Manual, Volume II, relating to election procedure of the Council and the Assembly. There also at page 207 similar sub-clauses are to be found, but the mistake which had crept in the Calcutta Municipal Act was not repeated there. The expression therein is: "corrupt practice *found to have been committed.*" This was thus correctly drafted. In these circumstances, having had all these samples or models before him, the draftsman of the present Bill could have easily avoided the erroneous words "corrupt practices *mentioned in the report.*" Now, clauses (*a*) and (*b*) in the Bill-clause containing the mischievous and mistaken expressions, have been redrafted, avoiding the mistakes. These, Sir, are some of the faulty drafting that have come up to this House. I would have cited other instances, but they will be merely cumulative. Many Bills have come up to this House with similar defects and many Bills have been passed by this House and the other House which have received universal condemnation outside. I cited yesterday certain comments which were made in high and serious quarters about erroneously-conceived and badly-drafted Acts and I do not wish to repeat them. This House has a serious responsibility. In fact, whenever a Bill has been passed by us which becomes an Act, this House shares the responsibility, and if the Act is badly drafted, this House too will certainly and properly be blamed for being a partner in the business. In these circumstances, the House should pause and attempt to improve the unsatisfactory state of affairs. I submit that Government should make adequate arrangements for drafting Bills properly. If they do not do so, the consequences will be that even those, who might be inclined to be blindly supporting the Government, will have to seriously consider whether they should entangle their fair name in the way in which they have hitherto unconsciously done, and whether they should any further agree to be abused—and rightly abused—by people outside this House. In these circumstances, although I support the third reading of the Bill, I would respectfully draw the attention of the House to this lamentable state of affairs and I would specially support the views so ably expressed by Mr. Scott-Kerr. The Bill has been thoroughly recast in the House. A new clause and a new sub-clause had to be inserted and at the last moment, as a result of the suggestions of Khan Bahadur Saiyed Muazzamuddin Hosain regarding costs, it was pointed out that even under the proposed amendment, the parties might find it extremely difficult to induce the court to call for the records of the original case. This was rightly pointed out by my honourable and learned friend Rai Sahib Jatindra Mohan Sen. Anybody who has any experience of conducting cases will find—and I speak with great respect—that in some cases courts refuse to call for records unless costly formalities were gone through. In the hands of such a court the parties might have found it very difficult to prove the costs incurred by them

in the previous proceedings. They would have to spend much, to recover costs and the process would have been a losing concern to them. So, a last-minute amendment had had to be inserted in the Bill to ensure recovery of cost. These were some of the defects of the Bill. The law of election regarding self-governing institutions is in a nebulous state—I might almost say—in a chaotic condition. In the Calcutta Municipal Act, the Bengal Municipal Act, the Village Self-Government Act and also in the Bengal Local Self-Government Act, we find that several contradictory provisions are laid down on cognate matters, although the principle relating to them should be the same. Though the machinery set up for deciding election disputes in these bodies should be similar, yet we find that there is considerable variety and even hostility between the provisions of the different Acts. Election cases on the old dilatory lines were going on merrily all over the province for a long time, till there was a political earthquake in Dacca which roused the Government to the urgency of a Bill like this and it has consequently been brought before the House in this hastily-drafted form.

After much serious reflection, I submit, Sir, that Bills should never be hastily passed. They should not be rushed through the House. I would agree with my friend Mr. Humayun Kabir in his insistent demand that we should have full time for giving notices of amendments. We have found considerable difficulties in mastering a Government Bill and submitting notices of amendments. We are handicapped for want of clerical help or that of a stenographer and for want of reference books.

So, Sir, I think the House should do well to consider the enlarging of the time for more than seven days. I think the responsibility of the members of the House cannot be properly discharged until more time is given. This simple Bill consisting of a few clauses have given us the greatest amount of trouble and anxiety. The reputation of this House is at stake; we have suffered things to go on in their own way for a pretty long time, and I do not think we should agree to do so any longer. I submit that in future some satisfactory arrangement should be made so that Government Bills are properly and correctly drafted on right principles, which would necessitate lesser amendments and less trouble in the House. Amendments, however carefully done on the floor of the House, can never make the composition uniform and faultless. I have the uneasy feeling that the many amendments which I introduced in many Bills may have created anomalies. I submit, Sir, that the House should carefully consider and decide its own procedure and settle its own policy as to what it is to do with Bills that come up before the House.

So far as this Bill is concerned, it is an improvement on the existing state of affairs, and as such it should be passed. But I suggest that

in future, Government should bring in an amending Bill to make the election law relating to the various self-governing bodies uniform, and there should be simplicity and harmony in the law, so as to give little harassment to the parties and ensure speedy and correct disposal of cases. Government should follow the suggestions of Mr. Scott-Kerr which I have elaborated and illustrated.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I rise to support the motion for the passage of the Bill as settled in the Council. My party is in favour of the principle underlying this Bill. There is no objection in any quarter so far as the principle and object of the Bill is concerned. The object of the Bill is to expedite the disposal of election cases and to minimise the cost of litigation. We, Sir, give our full support so far as that principle is concerned. But there are other difficulties. First of all, as I have already pointed out, the High Court should not have been brought in within the purview of the Bill. Then again, there is a provision according to which even cases pending before the High Court would be automatically stopped after 30 days of this Bill coming into force. That would, to my mind, Sir, upset the main principle of the Bill, namely, to expedite election cases. In the High Court, if the cases automatically cease, that means that the petitioners will have to go to other courts for the redress of their grievances and a lot of money will have to be spent over again. They had already incurred expenditure in the subordinate court, in the District Judge's Court and also to some extent in the High Court. After going through several courts, the cases had reached the final stage in the High Court. Now, if these cases be sent to the Tribunal, there will be fresh expense and more time will be wasted. The Hon'ble Minister in charge of the Bill was willing to take away the High Court from the purview of this Bill, but there being some technical difficulty he could not do so. I hope he would do so at least in the Lower House when this Bill would be sent back to that House.

There is another point which I wish to bring to the notice of the Hon'ble Minister, and it is about the personnel of the Tribunal to be set up under this Act. Under the existing Act, the petitioner has to file an application in the civil court and if the result of his application in the civil court is not satisfactory to him, he can go to the appellate court and then later on to the High Court. So, at present he gets three chances to have the merit of his case tested in three different courts, whereas according to the provisions of this amending Bill, the decision of the Tribunal consisting of one Judge will be final. You know, Sir, that to err is human and the Tribunal being the only authority, first and final, the possibility of error of judgment is not eliminated at all. Moreover, Sir, two heads are always better than one. There is also no provision for appeal in this Bill against the

decision of the Tribunal. Had there been any provision for appeal, I would not have any objection; for in that case, the chances of mistakes or error of judgment would be minimised. I would, therefore, suggest that there should be three Judges to form the Tribunal as is usually done in other cases. Chances of mistake would, in that case, be far removed and mistakes, if any, would be minimised to a very great extent. Sir, I congratulate the Hon'ble Minister for accepting some of the reasonable amendments put forward from this side of the House. We found that on previous occasions such amendments, good though they were, had been rejected at the very sight of them, but the Hon'ble Minister has not done so in this case. I thank him on behalf of my party.

I fully agree with Mr. Scott-Kerr that in conducting Bills such as this, Government should not hurry up and rush through, proposing short-notice amendments at the eleventh hour for the passing of the Bill. If short-notice amendments are to be made, it is desirable that they should be circulated and the members should be given time to consider them properly. We find that generally the practice in this House has been that Government put forward short-notice amendments and had them passed at the last moment without even most of the members knowing what was going on in the House and what the implications of such amendments were. So, it is highly desirable that in the case of short-notice amendments the House should be given sufficient time to thoroughly consider their implications.

With these few words, Sir, I support the third reading of the Bill.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Mr. President, Sir, I rise to support the motion for the passing of the Bill and, in doing so, I wish to make one or two observations. Sir, with regard to the principle of the Bill, there are no two opinions. Every one in this House is of opinion that cases of objection regarding elections should be disposed of as expeditiously as possible and not prolonged in the courts, as at present. There are no two opinions about that.

Sir, there have crept in a few defects in the Bill, and I wish to point out those defects, so that the Minister in charge may kindly take note of them and see if they cannot be set right when this Bill goes to the Lower House again for consideration.

Sir, one of the defects is, as has already been pointed out by one honourable member, Raja Bahadur of Nashipur, that although the Bill ostensibly wants to provide for an expeditious method of dealing with election cases, it appears that it very unconsciously takes away the existing right of appeal of the parties. Sir, under this Act the orders of the Tribunal consisting of only one Judge, would be final. I think provision must be made for more than one Judge, if finality is

o be given to the orders, preferably three. Otherwise, as we know o err is human, and mistakes will creep in, however intelligent and owever honest the man may be. He may commit errors, and if the arties have no right of appeal, it will be rather an injustice meted ut to them. I think, Sir, in every important case, even in cases of nes exceeding Rs. 50, appeal lies even from the decision of a first lass magistrate. Such being the case, if there be no provision for ppeals against the verdict of this Tribunal consisting of a single Judge nly, I should say it will be preposterous. Sir, I should request the Hon'ble Minister to consider if this cannot be modified when the Bill oes to the Lower House for consideration.

The other points that I raised have to a great extent been improved ere in this House, and one of the points is that the costs incurred in ll the pending cases which have proceeded already up to a certain oint should be considered at the time of allowing costs after the final ecision. But, Sir, it would be much better, as some of the honourable nembers have suggested, I think it is Rai Bahadur Manmatha Nath ose, that instead of these proceedings being suspended, these suits night be transferred to the Tribunal as petitions and the Tribunal night start from the point where the suits stand in the courts and if nly either of the parties wanted a *de novo* trial the whole case could e gone into over again. Otherwise, they could start from the point here they had stopped. I think this procedure would be much better han what we have arranged here. This point also may be considered t the time of considering these amendments in the other House. The rovision of including High Court had been accepted by the Hon'ble linister in charge of the Bill, but he was inclined later on to exclude t. If the new procedure is to apply to cases which are now pending in he High Court, it would mean considerable delay in disposing of cases, ecause cases will have to start anew, according to the new procedure. t would have been much better if instead it was amended in such a way that cases which have gone to appeal should not be tried under the mending Bill, but that they should proceed as they are.

With these few words, I support the passage of the Bill.

Mr. HUMAYUN KABIR: Sir, we have made it clear that we also re in general agreement with the principles underlying the Bill. I ave stated more than once on the floor of the House that if the objec-ionable clause—clause 9—had not been brought in, I think we would ave disposed of this Bill in 15 minutes. All other amendments but hose on clause 9 were purely drafting amendments. In many cases, he amount of difference between different sections in this House on hese points was unimportant, and could be settled by mutual discussion. But, Sir, it was the introduction of extraneous considerations in the Bill which made us oppose the passage of the Bill without first thrashing

out on the floor of the House all its implications. My honourable friend Khan Bahadur Naziruddin Ahmad has already referred to the political earthquake which was responsible for the emergence of this Bill at this late stage in the life of the present session of this House. As has already been pointed out, defects in local self-government election rules have been in existence for a long time but till something happened at Dacca, Government did not think it necessary to take any amending step. I think, from that point of view, perhaps it is a good thing that the Dacca incident has occurred. If the Dacca incident had not occurred, perhaps we would have to suffer under the disabilities of the old Act for a much longer time; but at the same time, this House ought to consider seriously whether a Bill should be brought in order only to meet the exigencies of a particular situation. After all, the most important characteristic of law is its generality and universality. If law is based on individual or particular cases, then law loses its essential character. If, Sir, in order to overcome the difficulties of a particular situation, legislation is brought forward simply because power happens to be in the hands of those who have fallen into difficulties, we do not know what abuses law may not lead to. It is also necessary to point out some other anomalies in connection with the Dacca election. The Dacca District Board was constituted as far back as 1933. At that time the life of the district board was for 4 years. Subsequently an Act was passed by which the life of a district board was extended to 5 years. The Dacca Board got the advantage of this amendment in the local self-government regulations. Therefore, Sir, normally the election in the Dacca District Board should have taken place in 1938, but simply because the power in the Dacca District Board happened to be in the hands of those who also happen to run the administration of Bengal, it was not felt necessary that the overdue elections of the Dacca District Board should take place. The whole of 1938 passed and almost the whole of 1939 passed, and nothing was done. It was only when certain political appointments made necessary a change in the constitution of the Dacca District Board that Government felt it necessary to hold the election at the time. But even then this question of election was not first raised. It was only when the Government Party suffered a rather ignominous defeat in the election to the chairmanship of the District Board of Dacca and power was transferred from the party which now runs the administration in Bengal to the hands of the party which is against the present administration, that the necessity of immediate re-election of the Dacca District Board was felt. Immediately after, the order went out for the delimitation of constituencies for the Dacca District Board, but the district board was not given adequate time to do so or to prepare the electoral rolls. Nevertheless, the district board recommended certain constituencies for the ensuing election to the district board, but the Government were not prepared to accept their delimitation. The constituencies recommended by the district board

did not suit the interests of the particular candidates the Government Party had in mind. Government rode roughshod over the recommendations of the district board and delimited the constituencies to suit the interest of gentlemen who constitute very important members of the Bengal Cabinet. In delimiting the constituencies in this fashion, no understandable principle whatever was followed. I have already pointed out the difficulties on account of the differing and sometimes conflicting principles which have been followed in the different parts of these artificially-delimited constituencies. Different returning officers were appointed, and they gave different interpretations of the existing rules and regulations, with the result that the district board elections took place under the most anarchical conditions—I use the word "anarchical" advisedly. I am also informed that when this was pointed out to the Collector of the district, he told the complainants that he was powerless, but the election seemed to him to be irregular and, therefore, they had a right to go to the civil court in order to get a remedy. And, accordingly, as I have previously pointed out to you, Sir, certain candidates did not take as much interest in the election as they would otherwise have done, because they were sure that under the existing law the authorities could not but pronounce the election to be invalid and order a new election. In many constituencies the election rules had not been properly followed, and there were allegations, too, of partiality against some of the officialls who were running the election. It is also a fact that four honourable members of the Bengal Cabinet were touring Dacca at the time in connection with the district board elections and they took along with them some of their parliamentary secretaries. When they addressed meetings for propaganda on behalf of their candidates, in many cases either willingly or through inadvertence, many District Officers also were present at these meetings. Their presence at meetings of this type had a very important effect on the mentality of some of the voters, who may have thought that the District Officers also were supporting a particular party candidates. It may have been far from the intention of the District Officers to support a particular party, but the fact is that they were there in those election meetings. As they happened to be present there as subordinates of the Ministers, the voters may have believed that if they did not vote in favour of the ministerial party, the District Officer might not like it. This apprehension may have been unfounded but, nevertheless, the apprehension was there. In any case, election petitions, I understand, have been filed in as many as 12 cases, and in some of these petitions definite allegations have been made of partiality on the part of Government officers in certain localities in the district of Dacca. Sir, it is not for me to say whether these allegations are justified or not; they are now subject-matters for decision before a court of law, and therefore, it would not be proper to make any reflection as to whether these allegations are correct or not. The fact remains that allegations were made about the partiality of the officials

with regard to this election. Now suddenly, we find this Bill brought forward posthaste without proper attention being paid to the drafting of the Bill, which has been pointed out by the members of every party in the House. With many defects in drafting, with many inaccuracies and in all hurry and haste, this Bill has been brought forward so as to shut out these cases from being fought out in the properly-constituted law courts and to refer them to a Tribunal which would be nominated by the District Judge. It has very pertinently been pointed out by some members who have spoken to-day that where there is no provision for appeal, it is a dangerous thing—on principle—to allow the decision to lie in the hands of a single officer. That single officer may be honest and may be very able; but with the greatest ability and honesty—and I think every one will admit that there are degrees of ability, among officers just as there is in every sphere of life—this officer, however honest and efficient he may be, may make *bona fide* mistakes. Yet under the Bill that we are going to pass, there will be no remedy even against such *bona fide* mistakes!

As suggested by Khan Bahadur Saiyed Muazzamuddin Hosain, if we are to shut out appeals against the Tribunal constituted under this Act, this Tribunal should consist of more than one member. If there are two or three members, they could consult together and come to a general decision with regard to the merits of the case. If the decision of the Tribunal is taken outside the scope of appeal, in that case the tribunal should consist of more than one member. Again, Sir, it was pointed out that cases which have gone up to the stage of appeal should not come under the operation of this Act. With regard to the cases of appeal before the High Court, I think an anomalous position will be created. I am glad to notice that the Hon'ble Leader of the House himself has admitted that an anomalous position will be created with regard to such cases. What is the position of the cases which have gone up for appeal before the High Court? The position is that the cases have been tried first in the lower court, then it has gone on appeal to the district court and finally a second appeal has been filed before the High Court. In such cases, as was pointed out by Khan Bahadur Muazzamuddin Hosain, it would be far more expeditious for the High Court to decide these cases than to refer them back to the Tribunal which will start proceedings *de novo*. This will not make for expedition: there must be some other principle involved for such a provision!

Then, Sir, if these cases are taken back to the lower court from the High Court, what will be the position? What will be the position if the appeal filed against the decision of the district court to the High Court is again referred back to the same district court in order to confirm or upset its own former decision? It is far from likely that the district court will revise its own decision or will go back upon his own award. Therefore, I trust that in regard to the High Court cases,

something should be done, and I hope the Leader of the House will bear this in mind. On the floor of this House, he has admitted that it would be a good thing to take the High Court out of the purview of this Act. But unfortunately, that good sense dawned upon him at a rather late stage. On account of procrastination, that good sense dawned upon him when it was too late to remove the defect from the body of the Bill. Since this wisdom has dawned upon him, I hope it will not die out like a flash in the pan and that he will have the same good sense to see through this amendment when the Bill comes up for consideration in the other Chamber.

Now, Sir, with regard to the retrospective effect of the Bill, I do not want to repeat what I have so often said on the floor of this House. It indicates an attempt to achieve a particular object and suggest that this legislation has been introduced for particular and not general purposes. We are against this particular aspect of the Bill. Minus that one feature, this Bill has our wholehearted support.

Mr. NUR AHMED: Sir, I rise to support the motion for the third reading of this Bill. I was all along practically a sightseer and did not take an active part in the discussion of this Bill. But one thing shocked me, and it is that though this Bill was a very small one and was expected to be passed in this House within a day or two, the discussion was prolonged for days together.

Sir, of course I am aware of the warlike atmosphere that has been created by the Great War which is going on in Europe and Africa and we cannot expect to be immune from that spirit in the air. But, here, Sir, in this House a wordy warfare was waged, and it went on for days together. Of course, our friend on this side had to fight single-handed the veteran stalwart on the other side; yet he never gave up the fight. To his great honour we must say that he carried on the fight in the best spirit though overwhelmed by greater numbers on the other side. Our friend on one occasion used the weapon "cholera" and we thought that cholera which is already taking away a large toll in Bengal is a very ominous thing, and he should not have flung it at his opponent. But the other warrior on the other side, undaunted, came the following day with a deadlier weapon and that was opium. Since the word was uttered, we thought that we will be nowhere. Sir, that is a weapon which is eating into the core of our Bengalee community because it causes a man to embrace a slow death. Sir, I thought that was more deadly than that of cholera.

But after this great fight there was a truce, or rather, both the parties called a truce, and we thought that after that there would be peace. When the battle was over, what did we find? Instead of peace, we found that a division was called. Thus ended the great fight.

Sir, this Bill which provides a simple and salutary procedure for trying election disputes has raised a great discussion, especially on one of its clauses, *i.e.*, clause 9.

Sir, I admit that retrospective effect should not be given to any enactment very lightly. The right which has accrued to a party should not be taken away so light-heartedly. But in this case a motive has been ascribed to the Minister at whose initiative this Bill has been brought in this House. I do not want to enter into that aspect of the matter. But I only submit for the consideration of this House one important thing and it is this—that this Bill provides for an expeditious and salutary procedure in matters of election disputes and it is desirable in the best interests of the people that election disputes should be summarily disposed of. Sir, it is expected that after every election there will be some disputes, because nowadays with the enlargement of the franchise the elections are very keenly contested. Every candidate has his followers, his ardent supporters, and whenever the election is over, these candidates are induced to file suits not themselves but in the name of their supporters. Sir, if these cases of disputes are allowed to go on for years, what will happen to the local bodies whose elections take place? From my own experience I can refer to what took place in connection with a suit in the Chittagong Municipality. There on the eve of the general election all the elections were withheld under the court's order, and suits were filed in the munsif's court or district court and then they went to the High Court. It continued for 3 years and, in the meantime, no election could be held. This is an instance which took place before the Act of 1932 was passed into law. Generally, the candidates who are not returned file suits. District board area is a large one and has a population of some lakhs. If the suits are left to go on as before, what would be the condition of those district boards and local boards? Lakhs of people will suffer if the boards are not reconstituted at the shortest possible time. I do not know what happened in Dacca. But in Chittagong at the last election held in November, only four such candidates have been returned out of a large number of members. Now, several suits have been filed as a result of that election which are now pending in the various munsifs' courts. If powers are not taken away, if suits are allowed to go on, I think it will take three or four years to constitute a new board, and it will be to the detriment of the 18 lakhs of people living in Chittagong. So, will this state of things be preferable, or it will be preferable to take away that power and transfer that power to the District Judge? I think Government were justified in taking away that power in the best interest of lakhs of people. By early constitution of the Board, lakhs of people will be benefited. These considerations were before Government when they decided on the principle of taking away the power. Apart from any party or political question,

Government adopted the only desirable solution of the problem, namely, to take away the power. But as regards the taking away of power of appeal, I quite agree with Khan Bahadur Saiyed Muazzamuddin Hosain that those cases should not have been taken away because they have been finally decided by competent courts and if appeal is pending in the High Court, that could not be proceeded with. I think, a very anomalous state of things will be created as suits are to be retried again in the District Judge's Court which once decided the case, and if the decisions are different, then the case will go to another court and so on. This will give rise to great discontent. I think that should not be done, and as my honourable friend suggests, this Bill should be amended in the Lower House so that the Bill may remain as before. So far as I know, there is no appeal pending in Chittagong and in Dacca also. But I do not know about Burdwan. I am told that nothing is pending there. Then, this power will not be used anywhere. I do not want to enter into the merits of the Bill at this stage, but I must admit that it suffered from drafting defects, and amendment after amendment was brought forward by my friend Khan Bahadur Naziruddin Ahmad who single-handed fought hard for improving the Bill in this respect, and so also did some of my honourable friends of the other side who took great interest in the Bill. With these words, I support the motion that the Bill be passed.

Rai Sahib JATINDRA MOHAN SEN: Mr. President, Sir, I beg to say a few words on the third reading of the Bill. I congratulate my honourable friend Khan Bahadur Naziruddin Ahmad for the outspoken speech that he has made before the House. His condemnation of the way in which Government Bills are drafted and introduced in this House is as scathing as possible. He has frankly admitted that those who blindly follow the Government in this House are also being put to a great strain in submitting themselves to the discipline of the party. I sincerely congratulate my honourable friend on his outspoken observation. Sir, my honourable friend Mr. Humayun Kabir has also referred to the genesis of this legislation and has proved that the legislation has been undertaken with an ulterior object. The rules required a change for a very long time, but it was not thought of so long, but something happened at Dacca in regard to district board elections which necessitated the introduction of this Bill so hastily. I beg to place one fact before the House and that is this: that the policy of the Government has been for a long time to bring all self-governing institutions under the heels of Government, and this Act, let us hope, is probably the last of its kind on the part of Government. In one of my questions regarding the constitution of the District Board of Dinajpur, I enquired of the Hon'ble Minister as to why, although the subdivision of Thakurgaon contained more Hindus than Muslims, no Hindu member was nominated to the Board from that subdivision,

in spite of the fact, as was admitted by the Hon'ble Minister himself, not a single Hindu could get himself elected to that board from the subdivisional local board. The result was that in the District Board of Dinajpur so far as the subdivision of Thakurgaon was concerned, there was not a single Hindu member on it, either elected or nominated, on that Board. And when I asked the Hon'ble Minister as to the reason why it was not considered necessary by the Government to nominate a single Hindu member, the answer given by the Hon'ble Minister was that in nominating members Government did not take into account regional or other considerations, but only took into consideration the question as to by whom the district board would be better served and benefited, or who were the persons who would be best suited to help the Government in the administration of the district board. Now, Sir, these words are very pregnant with meaning, that is to say, only those whom Government consider to be best fitted to help the district board, would be given nominations. By the expression, "persons who are most likely to benefit the district board," they perhaps meant only the Muhammalans and not the Hindus, as if there was not a single Hindu in the subdivision of Thakurgaon who was considered to be a person fitted to help the district board in the way in which Government would want it. So, as I said, the policy had been for a long time to bring under the heels of the Government the self-governing bodies in the country. This Bill is another attempt to bring the district boards under the heels of the Government. My friend Mr. Humayun Kabir said that certain reasons necessitated the introduction of this legislation in the province. That is those who wanted to run the district——

(At this stage Rai Bahadur Manmatha Nath Bose crossed the floor of the House.)

Mr. PRESIDENT: (To Rai Bahadur Manmatha Nath Bose) Order, order. It is not open to any honourable member to cross the floor of the House so as to intervene between the Chair and any speaker who may be addressing the House

Rai Bahadur MANMATHA NATH BOSE: I as very sorry, Sir.

Rai Sahib JATINDRA MOHAN SEN: Sir, Mr. Humayun Kabir has said that the Government wanted that the District Board of Dacca should be run by those who are in the confidence of the Government, and as the persons who are not in the confidence of Government have been defeated, they have brought civil suits. He also said that the procedure for running the election was defective in various ways and that in order that they may not have their grievances redressed in a

civil court, this legislation has been introduced. If it be the case, I cannot say what stronger condemnation can there be for Government. So I think Government have certain explanations to give to the House. I hope the Hon'ble Leader of the House will give that explanation. I do not want to take up the time of the House. But so far as we are concerned, we are in agreement with the principle of the Bill that there should be a speedy procedure for the determination of election cases. But we are opposed to the introduction of the retrospective effect in the Bill. I do not, however, want to repeat these things again. I congratulate Mr. Scott-Kerr on the frankness with which he has criticised the action of Government in hurrying this legislation through this House and elsewhere in a slipshod manner. The way in which Government are doing these things has become unbearable even for the European Group. They all stand against it. Their own supporters stand against it. Government, I hope, will do well in taking a lesson out of it.

Maulvi ABUL QUASEM: Sir, I had no desire to participate in this debate, but one remark coming from the last speaker, Mr. Jatindra Mohan Sen, has compelled me to speak a few words. He paid a compliment to Khan Bahadur Naziruddin Ahmad for his outspoken speech. But, Sir, it was a left-handed compliment. In the same breath, he said that the Coalition Party blindly follow Government and that the strain was even unbearable to the members of the Coalition Party. Sir, I wish to record my protest against this remark. Members of the Coalition Party have their own duties, and they have got their own self-respect. They do not follow Government blindly. Witness the large number of amendments thought out and proposed to the Bill by the members of the Coalition Party which were brought forward in this House. These amendments are greater in number and better in effect in many cases than the amendments put forward by the Opposition. That at least should go to show that the members of the Coalition Party are not blindly following Government. But at the same time, the fact has to be recognised that they belong to a party which supports the Government. Individual members bring forward amendments; they are discussed in party meetings. Government either accepts some of the amendments or convinces the members that the amendments are not necessary, and they withdraw those amendments or they do not press them. Whenever we consider any amendment to be of fundamental importance and we do not feel convinced of the reasons advanced by Government for withdrawing it, we have a regular fight with the Government on the floor of the House and get it accepted by Government. That is not blindly following Government. So Rai Sahib Jatindra Mohan Sen's charge against the Coalition Party is unjust and unfounded. It is unseemly and I do register a protest against his charge.

As regards his next charge, namely, that self-governing institutions are being sedulously brought under the heels of the Government, I think my friend knows what are the duties of a Government. Now these self-governing institutions are brought into existence at the instance of Government and the Legislature. There should be somebody to guard against the wrongs, if any, committed by these bodies. It is quite possible that these bodies, however great they may be in personnel, are apt to commit errors, and on such occasions there should be some authority to call a halt to the self-governing institutions which commit such mistakes, and it is the duty of the Government to take steps to see that mismanagement of their affairs by the local self-governing bodies does not go too far and is checked at the proper time. I should think that Government by taking such steps would only be discharging an essential public duty.

With these words, Sir, I support the third reading of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I do not propose to take a long time in replying to some of the points raised by my friends opposite. First of all, I venture to submit that I have listened with very great attention to some of the interesting observations made by the Leader of the European Group about hurried legislations. Personally, Sir, I am opposed to hurried legislations, but hurried legislations are sometimes unavoidable because when a situation arises, it is Government's duty to meet that situation, and Government have got to come forward with legislation, if necessary. Now take for example: last year it was suggested that Government should give immediate relief to the tenants of non-agricultural areas. Well, that was a demand that came from all sections of the House. In this case, Government had to bring forward a Bill, and to get it through the House as a Temporary Provisions measure. Now, that is only an illustration I give to the honourable members for appreciating the difficulties of Government. Government are not always free agents, however much they want it to be so, because situations are sometimes beyond their control, beyond the control of the Opposition, beyond the control of anybody, and those situations have got to be met and, therefore, hurried legislations are sometimes unavoidable.

In the Statement of Objects and Reasons for this Bill, Government have very clearly explained why this legislation was necessary. An attempt has been made by some honourable members to connect this legislation with the election to the Dacca District Board and suggestions or rather insinuations have very openly been made by Mr. Humayun Kabir and Rai Sahib Jatindra Mohan Sen (Mr. HUMAYUN KABIR: Open accusations.) that because Government wanted to help their supporters in the Dacca District Board, this Bill was introduced. I will ask the House to analyse this observation. Does it stand analysis? Sir, what are the proposals? The proposals are that Government

should have power to appoint a special authority, that is, a tribunal to try election disputes, so that those election cases might be disposed of more quickly and more expeditiously and at a lesser cost. That is the whole object of the Bill. Who is going to be that special authority? District Judge or any other judicial officer not below the rank of a Subordinate Judge. These are the provisions of the Bill. Once the special authority is appointed, he is as independent a person as a judicial officer. So, however much Government might like to help their so-called supporters with regard to election of a particular local body, they cannot influence the decision of the special authority. They cannot manipulate in any way the election cases, they cannot transfer the special authority, or they cannot do anything that might be considered influencing directly the decision of a Tribunal in favour of the Government supporters. But it will achieve only one object about which I presume there is no difference of opinion, namely, it will help an expeditious disposal of the election cases. My friend the Raja Bahadur of Nashipur, Mr. Kabir, Mr. Nur Ahmed, Khan Bahadur Muazzamuddin Hosain, Khan Bahadur Naziruddin Ahmad all agree that it is a very salutary provision and that it will avoid delay and limit cost, and will help to constitute new boards sooner. You all agree on those points. It is immaterial whether it will help or hamper a particular set of people. Imputation of motive in public life is very easy. I would request you to give up that habit. If you are anxious to govern yourselves, leave that habit of imputing motive.

Sir, Khan Bahadur Naziruddin Ahmad has said that there was a political earthquake at Dacca and the result of that earthquake is this Bill. Sir, there must be earthquakes either in the Balkans, or in Greece, or in South Africa, or in Central Europe for producing a New Order. It has been suggested that this Bill is designed only to help the supporters of Government. The Khan Bahadur knows very well that the District Board of Burdwan is now controlled by people who are considered to be pro-Government. Will it help them, or will it hamper them? (Khan Bahadur NAZIRUDDIN AHMAD: It will hamper them.) Then? Is he justified to suggest that this Bill is designed to help the supporters of Government? (Mr. HUMAYUN KABIR: Good cross-examination!)

Sir, I will now turn to the points raised by Khan Bahadur Naziruddin Ahmad,—very interesting points—and I am grateful to him for his observations about the drafting defects in the Bill. I admit that this Bill should have been more carefully drafted; but as this Bill was not referred to a Select Committee, much of the work that might have been done there had to be done on the floor of the House and we had considerable help in this matter from Khan Bahadur Naziruddin Ahmad. However, I promise that in future Government would see that even in hurried legislations more attention is paid to drafting.

Personally, it is not my responsibility; it is the responsibility of the experts, and I think the experts will bear in mind the observations made by different members in this House. It is very unfortunate that I have to refer to some observations of Mr. Humayun Kabir about the Dacca District Board. He observed that the Dacca District Board should have been reconstituted in 1938, but Government did not take any steps for the reconstitution of the district board because the supporters of the Government happened to be in power, and it was only when they suffered a defeat in the election of the board that the Government roused themselves to action. There I join issue with his statement. Can he point out a single instance where the reconstitution of a district board was taken up simultaneously with the expiry of its life? I had been in charge of the Local Self-Government Department for seven long years, and I can tell him that almost without exception each and every district board exceeded the period of its life by one year. (Mr. HUMAYUN KABIR: Why?) Because the preparation of electoral rolls takes a very long time, and very seldom the preparation of electoral rolls synchronised with the expiry of the life of a district board or a local board. Therefore, Sir, I think it is rather unfair to make the observation that in this particular case delay in reconstituting the board was due to the fact that the supporters of Government or persons closely associated with Government happened to be in power in the Dacca District Board. There is no substance in this insinuation, and I hope my friend will think twice before he repeats such insinuations in future.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, may I rise on a point of personal explanation? I have been instrumental in making it clear that the High Court was included in the expression "Civil Court." But this has been criticized in the House. One of the reasons why I suggested the amendment was that it seemed to me that the High Court was usually understood to be included in the generic expression "Civil Court." I find that there has been a suggestion that it should again be changed in another place; but I would draw the attention of the House to the important changes made in the law by the Bill. In the High Court and other civil courts, things might have been fought almost on any grounds; but by this Bill the grounds on which elections may be challenged, have been very much restricted. It is not merely a question of a decision of the High Court; it is a question of the grounds on which their decision should be formed. I think, therefore, that the change made by this House should not be altered in another place.

Mr. PRESIDENT: The question before the House is: that the Bengal Local Self-Government (Amendment) Bill, 1941, as settled in the Council, be passed.

(The question was agreed to.)

Message from the Bengal Legislative Assembly.

SECRETARY to the BENGAL LEGISLATIVE COUNCIL: Sir, I have received the following message from the Bengal Legislative Assembly, signed by the Hon'ble Mr. Speaker:—

"The Bengal Legislative Assembly at its meeting held on the 3rd April, 1941, agreed to the amendments made by the Bengal Legislative Council in the Bengal Motor Spirit (Sales Taxation) Bill, 1941.

M. AZIZUL HAQUE,

Speaker, Bengal Legislative Assembly."

Mr. PRESIDENT: I now adjourn the House till 2-15 p.m. on Tuesday, the 8th April, 1941.

Adjournment.

The Council then adjourned till 2-15 p.m. on Tuesday, the 8th April, 1941.

Members absent.

The following members were absent from the meeting held on the 7th April, 1941:—

(1) Mr. Kader Baksh.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Khan Sahib Abdul Hamid Chowdhury.
(4) Mr. Hamidul Huq Chowdhury.
(5) Mr. Narendra Chandra Datta.
(6) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(7) Mr. R. W. N. Ferguson.
(8) Khan Bahadur Syed Muhammad Ghaziul Huq.
(9) Khan Bahadur M. Abdul Karim.
(10) Maulana Muhammad Akram Khan.
(11) Sir T. Lamb.
(12) Dr. Radha Kumud Mookerjee.
(13) Mr. Ranajit Pal Chowdhury.
(14) Khan Bahadur Mukhlesur Rahaman.
(15) Dr. K. S. Ray.
(16) Mr. J. B. Ross.
(17) Khan Bahadur M. Shamsuzzoha.
(18) Mr. J. McFarlane.

B. G. Press—1941-42—2905A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 8th April, 1941, at 2-15 p.m., being the twenty-sixth day of the First Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

The Hon'ble Mr. PRASANNA DEB RAIKUT: Sir, questions Nos. 73, 74 and 75 put down in to-day's list may be postponed as the Hon'ble Ministers to whose departments the questions relate are unable to attend the meeting to-day owing to illness.

Special Motion regarding Dacca Riot Situation.

Mr. SACHINDRA NARAYAN SANYAL: Sir, I sent notice of a special motion——

Mr. PRESIDENT: What was it about?

Mr. SACHINDRA NARAYAN SANYAL: Shall I read it out?

Mr. PRESIDENT: Yes.

Mr. SACHINDRA NARAYAN SANYAL: It runs as follows:

"Under the provision laid down in rule 96 of the Bengal Council Procedure Rules may I have your consent together with the consent of the Minister to whose department the motion relates (in this case the Home Department) to move the following special motion during the current session of the Council:—

'This Council is of opinion that apropos the riots of Dacca a committee of enquiry be immediately constituted of three Hon'ble Judges of Calcutta High Court to ascertain the genesis of the recent Dacca riots and to report on the following points:—

(*1*) the steps that have been taken by the Government before and during the riot for the preservation of peace and order in the district;

(*2*) the extent of loss of life and property;

(*3*) what steps Government have taken for the recovery of the property looted during the riot and the compensation that the Government should pay to the sufferers; and

(*4*) to suggest remedial measures that should be taken by the Government in case of similar riots in future.' "

Mr. PRESIDENT: May I refer the honourable member to section 96 of our Rules? Such a motion can only be moved if both the President and the Hon'ble Minister to whose department the subject relates give their consent. In this case, the honourable member has not obtained the consent of the Hon'ble Minister concerned; so it cannot be moved.

Mr. LALIT CHANDRA DAS: On a matter of personal explanation, Sir. On a previous day in connection with my adjournment motion relating to the Dacca riot situation, I put some questions to the Hon'ble Minister in charge in the course of my speech and left the Chamber after that thinking that I would be able to return in time to hear the reply of the Hon'ble Minister. But unfortunately, when I returned the meeting was over. I have since learnt that a stricture was passed on me by the Chair on account of my absence on that occasion. I am sorry, Sir, that I could not come back to the Chamber in time, but I may be permitted to state that I did not mean any disrespect to the Chair or to the House or to the Hon'ble Minister concerned.

Mr. PRESIDENT: I may state here definitely that when an honourable member of the House who asks any question, or indicts the Government or makes any adverse comment, parliamentary decorum demands that he must also wait till replies thereto are due to be given. However, I accept your apology. I hope such things will not occur in future.

Mr. SACHINDRA NARAYAN SANYAL: Sir, I had tabled a short-notice question and the Hon'ble Chief Minister promised to reply to it. May I read the question? It is numbered 75A.

Mr. PRESIDENT: The Hon'ble Chief Minister is ill. So it cannot be taken up till he recovers.

Mr. NARESH NATH MOOKERJEE: From yesterday's debate we gathered that the House would be prorogued to-day——

Mr. PRESIDENT: Perhaps it may be known to the honourable member.

(At this stage the Leader of the House, the Hon'ble Sir Bijoy Prasad Singh Roy, entered the Chamber.)

Mr. NARESH NATH MOOKERJEE: Now that the Leader of the House is here, Sir, he may perhaps be able to give us some information with regard to this question.

Mr. PRESIDENT: May I know it from the Leader of the House if the Council is likely to be prorogued to-day?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Most likely, Sir, because after this adjournment motion is finished, there is no other business for the House to take up.

Adjournment Motion.

Mr. PRESIDENT: Order, order. The motion for adjournment given notice of by Mr. Kamini Kumar Dutta will now be taken up.

Mr. KAMINI KUMAR DUTTA: Sir, I move: that this Council do adjourn its business for the purpose of discussing a definite matter of urgent public importance, namely, the situation arising out of the burning and looting of the houses of Hindu residents in a large number of villages, exceeding thirty in number, comprised within the jurisdiction of Raipura and Shibpur Thanas in the district of Dacca and of Hindu shops in the bazars in the same area from 1st April, 1941, to 4th April, 1941, and of the complete failure of the police and of the authorities concerned to prevent these outrages committed in daylight by organised mob and to give any protection to the oppressed Hindus and the consequent evacuation of the Hindu residents from the affected area and taking refuge in an Indian State, namely, the State of Tripura, outside British India, and failure of the Government to take any measure of protection for the Hindu residents of that area.

Sir, in moving this motion I ought to make one point quite clear before this House. I would appeal to the honourable members of the House not to look at my resolution from any communal standpoint. While I would have the painful necessity of narrating some incidents relating to the outrages committed upon the Hindu residents of a particular area in the district of Dacca within the jurisdiction of the police-stations of Raipura and Shibpur, it is farthest from my intention to embitter the communal tension which is already prevailing in the country. I should make it known to the House that I am not actuated by any sinister desire to accentuate the communal feeling; for, I personally think that in the present situation that would be as bad as committing a crime. So I would again repeat my appeal particularly

to my Muslim friends in the House—please do not look at this motion from any distorted angle of vision. My object is to place before the representatives of the people here, who are the leaders of public opinion and who are really responsible to the people of this country, an unbiassed version of the regrettable incidents which have taken place in the interior of Dacca, so that they may form an idea of the extent of the failure of the present Government, I mean the present Ministry, to give protection and security of life and property to those people who are committed to their charge. Let it be recorded in history, that the majority community in this province while in power, simply looked on as spectators, the flagrant failure on the part of their party men on the Treasury Benches, to perform their elementary duties at a very critical moment. If anybody entertains the idea that any particular community in Bengal can suppress the other, he must disabuse his mind of that idea, because neither the Hindus can suppress the Muslims, nor the Muslims can suppress the Hindus in Bengal. Since the proportion of the two communities in Bengal is almost equal, it is foolish for anybody to cherish the idea of one community dominating over the other. Any attempt to bring any feud between these two communities would doom the future history of the country. It would destroy the economic structure of the nation. I would again appeal to all members to consider my motion from an impartial standpoint, just as a tribunal or a judge takes a non-partisan view of a case.

Now, before I come to the subject-matter of the motion itself, I would like to give an idea of the geographical position of that part of the country in which these outrages had been committed, as many of my friends here may not be acquainted with the exact situation of the area of disturbances. The Government communiqué issued yesterday has served to create an impression as if these are jungli areas in which all sorts of crimes may be perpetrated and the perpetrators may melt in the neighbouring villages without any chance of being pursued. As a matter of fact, I personally know the area hailing as I do from the district of Tippera which is adjacent to the places where these unfortunate incidents have happened. My district is on the south bank of the river Meghna and these places are on the north bank of the river. I will now briefly state the position of the areas of disturbance with reference to the railway line which runs across the places and that would show that really the affected areas are very easily accessible being within one hour and a half's journey from the town of Dacca. We may begin from Bhairab Bazar which is on the north bank of the Meghna. After Bhairab Bazar there is Daulatkandi, 10 minutes; then Srinidhi, Methikandi, 16 minutes from Daulatkandi; Khanabari, 15 minutes from Methikandi; Narsinghdi; 21 minutes from Khanabari. From the affected areas Dacca is only a journey of 1 hour and 52 minutes and Narayanganj 38 minutes more.

The villages affected do not lie far away from the railway stations but they are very close to the railway stations. I happened to meet the station-masters of Srinidhi, Methikandi, and Khanabari after the incidents and had conversations with them and they told me that they had not only seen the smoke actually coming out of the villages close by but that the smoke was so profuse that it almost choked them. So, it is not that really these outrages were committed in villages far away from the town of Dacca. These incidents commenced at first with the looting of the bazar called Radhanagar on the afternoon of the 1st of April and it continued up to the noon of the 4th of April. I may give a true picture as to how I gathered the information. After attending the Leaders' Conference in the Government House on the 2nd April, I left Calcutta and reached Comilla on the night of 3rd April. On the way, I got the information that a serious communal outbreak had taken place and I was also informed that some refugees had taken shelter at Agartala—an Indian State.

Agartala happens to be only a few miles off from Comilla and I also happen to be acquainted with the Ruling Prince of that State, the present Maharaja. The very next morning I proceeded to Agartala when I had an oportunity of seeing the refugees. The refugees at that time, that is on the 4th April, numbered over 3,000. I left Agartala at or about 1 a.m. on the 5th April. While there, I had also an opportunity of meeting His Highness who was doing everything possible to give shelter to these unfortunate people. While meeting the regugees I also took the opportunity of talking with them mainly about what had actually occurred. The refugees were not ordinary people; there were among them graduates, pleaders, merchants, bankers, doctors, members of union boards, members of Debt Settlement Boards and members of the committees of High English Schools there: all respectable people, besides a large number of poor cultivators. They left the place with their wives and children as the panic spread. The extent of the panic will appear from one fact which I came to learn, viz., that even mothers with babies 5 days old had left their place out of panic and His Highness placed them in the Maternity Ward of the local hospital. I did go to this hospital and saw both the mother and the babe, which was less than a week old. Sir, the extent of the panic which prevailed in those localities can be imagined from the fact that even mothers from the lying-in room with babes less than a week old, were compelled to seek shelter not in any place in British India but in an Indian State not adjoining the place affected, but 40 miles distant. On the 4th April, I was there and when I left the place and came to Akhaura, at about one o'clock in the morning, the next train which arrived there carried 500 of these refugees. I went to see the guard of the train and asked him what was the actual condition there. He told me with tears in his eyes that at some of the stations these refugees were standing on the railway lines and

asking him to be merciful and to run the train over them rather than allow them to remain there. They entreated him to carry them in the train and he actually stopped the train and got down and took as many of them as his train could carry. In the affected area the railway company has been doing very good service; it had actually ordered that all the refugees should be taken in the trains free of charge, only provided that there was accommodation in the train. They have carried the refugees from the affected areas to Agartala.

When I was leaving for Comilla, I received intimation from the Publicity Officer of the Tippera State that the number of refugees had exceeded 5,000 and in to-day's papers I find that the number has exceeded 9,000. Sir, I need only say one thing. Can a greater condemnation of the present ministry be imagined? Can there be a greater condemnation of the present Government that people in British India think that an area administered by an Indian Ruler is safer than an area administered in British India by our "popular" Ministers under a British Constitution? Actually, Sir, these refugees thought that no place in British India was safe for them to escape from the persecution and they went to an Indian State where there would be no persecution of the minority. Can a greater condemnation, a greater censure on the present administration of this province be conceived?

Now, Sir, while speaking about the villages affected, I may say that I did collect a list of villages from those people—the villages that were looted and burnt on the 1st April—they are Radhanagar Bazar, Baherchar (looted), Rahimabad (looted). The following eight villages were raided and burnt on the 2nd April:—Hairmara, Nabarchar, Shahebnagar, Noadia, Chandpasha, Latterbow, Amirabad and Saripur. None of these villages is far away from the railway station and they are not places full of jungles, but they are villages in which there are prosperous markets. Then, Sir, the following villages were burnt and raided on the 3rd April:—Methikanda, Srirampur, Monoharpur, Haripur, Meratali, Raipura and Radhapur. These places were looted before but were burnt on the next day. One of the most strange things is that 11 *pucca* houses were burnt—mind you, they are not *kutcha* houses—they are *pucca* houses belonging to the following men:—Mahesh Chandra Pal of Raipur, Murari Mohan Roy of Raipur, Iswar Chandra Roy of Raipur, Mahim Chandra Roy of Raipur, Mukunda Mohan Roy of Raipur, Suresh Chandra Pal of Methikandi, Kanendra Chandra Chakraborty of Methikandi, Jagat Chandra Choudhury of Hashimpur, Raj Kumar Pal Choudhury of Radhanagar, Hari Krishna Pal Choudhury of Hashimpur, and Sachindra Chandra Das of Shapmara.

The station master of Methikanda told me that there were two *pucca* houses adjoining the station and he himself saw those houses being burnt down. In this connection, I should like to stress one

point and that is this: From the facts gathered by me, no doubt is left in my mind that this oppression and outrage in the locality was engineered by some outside agency. It is impossible to have it perpetrated without the help of an outside agency. Another impression left on my mind is that those who engineered these outrages, must have been given assurance of absolute immunity from punishment for the perpetration of these crimes——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I put one question to the honourable member? Is that an information or the honourable member's own impression?

Mr. KAMINI KUMAR DUTTA: If it is an impression, it is a very reasonable impression that would be left on one's mind, because it is not possible to get positive proof of conspiracies like this. I will give my reason why I think so. People who are affected have told me and have given me facts that about a week before the actual occurrence respectable men—members and presidents of union boards—gave written information to the police that there would be trouble. They were also told by friendly Muslims of the locality that oppression was coming upon their heads and this information was given to the police. But no steps were taken by the authorities. They also said that during the outrages those friendly Muslims tried their best to help the poor victims but could not do so. So there is no doubt that there were laches on the part of the Government.

There is another important fact: it has been said by many people who are victims of these outrages that the fire was not started by match sticks or by kerosene, but that some powder was thrown and it automatically ignited. Apparently, some combustible article was used for this purpose. My firm belief is that that could not have been done by ordinary villagers and the obvious inference is that this was engineered by outside agencies. The *communiqué* issued by the Government first said that detailed information was lacking. Then it said that from "such information as is available it seems that the looting and arson is being committed by local men who disappeared into their villages afterwards and melted away on the approach of police forces."

But my impression is that the real spring of the disturbance came from outside agencies and some local people were taken into confidence and thus these outrages were perpetrated. In this connection, I want to stress another point and that is that the station master of Khanabari said that he sent messages on the evening of the 1st April to the District Magistrate and Superintendent of Police, Dacca, and to the local authorities and he again repeated his message in the midnight. But no steps were taken till the Additional District Magistrate arrived. He arrived without any force with him, perhaps under the delusion that

the authorities still had prestige. But they did not know that they had lost their prestige and that even Mr. Hatch-Barnwell was not spared and severely beaten by the mob. This shows to what extent the authorities have lost their prestige. This one incident would show and it ought to be a warning that even a British officer has lost his prestige, and that lawlessness and disorder was ruling supreme in the province.

Mr. PRESIDENT: Motion moved: that the House do now adjourn.

Mr. SACHINDRA NARAYAN SANYAL: Mr. President, Sir, little did I anticipate, especially after the tall promise held out by the acting Home Minister, that I shall have to participate in a debate on such a detestable topic. Only the other day on my motion, Sir Bijoy waxed eloquent over all that the alert Government were doing to stop the menacing riots at Dacca. But it is a sad commentary on the efficiency of the Government to find that not only have the Government failed to check the mob elements in the Dacca City area; on the other hand, their barbarous atrocities are spreading to the interior of the districts of Mymensingh and Tippera as well.

Sir, on that day I insisted upon the Government not to adopt a hush-hush policy and suppress publication of harmless truth. But the Government was adamant with the result that the mischief-makers were left free to do what they like. The ruffian elements of both the communities had taken advantage of the Government's weakness to deal with the situation and are having their own way. There is yet time for the Government to take the public into their confidence, to trust the men on the spot, so that this intolerable situation may be brought under control.

Sir, this is not the time to blame this community or that; this is not the time to wait indefinitely. The shadow of a greater calamity is already looming large on the horizon. As such, the rule of mobocracy should be put an end to by all means.

Sir, in the past we have seen that such acts of lawlessness were stopped quickly by the officers on the spot. But how is it that they cannot subdue the rowdy elements now? The answer is not difficult to find. The unnecessary intervention from outside is responsible for the indifference of the local officials. This state of affairs must cease. No matter if one Muslim or two Hindus are victims. All outside interference—be it from a lion-like Premier or a fighting Rajput Kshatriya Home Minister—must cease and local officials should be left free to deal with the situation with the assistance of the local public. We have had enough of nonsense; the people have suffered too much—let us all try to bring back the peaceful atmosphere.

Sir, I hope that the whole House would unanimously accept the motion which I have great pleasure in supporting.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I have a similar adjournment motion and I rise to support the motion just now moved by my friend Mr. Kamini Kumar Dutta. Sir, I read the Chief Minister's statement with the care that it desires. I combat his statement that the disturbance was not the result of organised and co-ordinated activities. From the information received and from the method of operation of the rioters, it was clear that the whole thing was pre-conceived and organised. The rioters were composed of local Muslims and *char* people with a few outsiders and those outsiders were some Maulvis and about 3 to 4 dozen Muhammadans from Dacca. Those outsiders were clad in black shorts and ganjees with a handkerchief tied over their heads and they had in their possession maps and plans and they were working out the whole game by dividing into different groups. One group led with the *Azad* in hand shouting that Moslem women had been ravished by the Hindus, mosques had been desecrated by the *kafirs* and that Fazlul Huq was dead and the Nawab of Dacca was badly injured. Then others followed with cries of *Allah-o-Akbar*, *Pakisthan Zindabad* when Muhammadan inhabitants of the villages joined them and surrounded the Hindu houses. These rioters numbering several thousands demanded money from the Hindu residents, plundered what they could carry with them and burnt the houses down. Looting commenced from Adiabad bazar within Raipura police-station on the first of April and on the same day Hindu houses of about six villages were plundered and burnt. It was on this day that Mr. Hatch-Barnwell, Additional District Magistrate, was attacked and wounded, and I do not know whether he is living or dead now. On the same day, the Hindu houses of 6 villages were plundered and burnt to ashes. On the 2nd April about 20 villages and on the 4th 10 villages were burnt. On the 6th of April the Inspector-General of Police flew over the area without condescending to descend on the *terra firma* and it was not surprising that he would note, as the Chief Minister observed, that only two *paras* were gutted. Neither was it surprising that the Commissioner of the Division travelling on the same day looked from the windows of a first class compartment in the train and saw smokes and noted it. It was quite clear, however, that these places were not difficult to approach and there were sufficient means of communications and let me say here and now that both Narsinghdhi and Raipura were accessible by train and steamer. The funniest part of the Chief Minister's statement was where he described the rioters as mere people without describing them as Muslims or Hindus: people who came out of their homes, just committed looting and arson and other offenses but on the merest approach of the police vanished into the jungle and escaped arrest. I ask in all seriousness where in the

beautiful plain of Narayanganj subdivision was the jungle where hundreds of rioters could escape arrest unless the police were thoroughly inefficient or were afraid to act because of the Muslim character of the Government. The local authorities—the thana officer of the Narsinghdhi was a Muhammadan and was officiating as an Inspector of Police, the Deputy Magistrate stationed at Narsinghdhi was also a junior Muhammadan officer.

Sir, if you look deeper into the question, you will find that there has been too much loose talk on the part of the leading spirits of the present Ministry since the start of the Government 4 years ago. From the legislative enactments and administrative measures of the Ministry and from their communal outlook, the mentality of the vast body of the Muslim community had been so fashioned that it had become responsive to subversive ideas of looting, arson and plunder and of non-payment of rent or of debt. A happy state of things would follow *Pakistan*, as has been emphasised by irresponsible speakers outside legislature. If all these things are to be stopped, the present Ministry must yield place to a new one and that Ministry should compose of nationalist Muslims and nationalist Hindus. Sir, the situation that has been created is a fit case for the Governor to take action under sub-sections (*a*) and (*b*) of section 52 of the Government of India Act as also section 57 of the Act—to safeguard the interests of the people from great menace and to maintain peace and tranquillity of the province. Governor should exercise his special responsibilities. The facts stand out—that crimes of violence have been committed in the Dacca district including Khulna commencing from the 14th March and are continuing even now, in the Dacca and Narayangunge side where the department of Law and Order has completely broken down.

Sir, the whole atmosphere breathes communalism. What I was going to urge is that the Bengal Cabinet should be re-constituted. The only way to protect the minority community is the reconstitution of the Ministry. The department of Law and Order have an unfortunate knack of detaining, externing and imprisoning Hindu youths who are the bulwark of the Hindu community and who may possibly be a stumbling-block in the way of *Pakistan*. All that I do say is this: unless the mentality of the people is changed—and this can be changed only by a change of the Ministry in their actions and speeches,—unless this is done, I am afraid this will ruin not only the eastern side but the different parts of Bengal, and no small share of the responsibility for all these riots will lie on the heads of the persons who are running the administration at the present moment. Sir, it has been said by the Hon'ble the Chief Minister that a large number of police have been imported from the different parts of Bengal into the affected areas. But when? For the moment, Sir, they may be able to stop the riots but they have not yet been able to say whether the people who fled to

Agartalla have returned or been rehabilitated in their homes. Will the Hon'ble Home Minister be also pleased to tell us whether these people will be compensated by Government through whose failure they have suffered this great loss? The riot at Narayangunge side may be stopped for the moment but I am convinced that as long as this present atmosphere does remain, the miscreants will get the idea that they can do these things with impunity and riots will break out in different parts of Bengal, sporadically and on different occasions and will spread from one place to another. So, I think that the best and surest way to stop riots for all time will be to replace the present Ministry by a new one and the new Cabinet at the start should be given all possible opportunities of recasting things in Bengal so as to enable the Hindus and Mussalmans to live in peace and amity, and harmony.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I rise with much sorrow in speaking on this motion. It is extremely regrettable that riots and arson, of the type that has been mentioned, should be taking place. But I think the outrages that are happening have a much deeper cause than what appears on the surface. We find a certain section of the Press and the public are continually preaching the virtues of law-breaking, though in the name of non-violence. This doctrine has been incessantly preached in the country for years together and those who sowed the wind are probably reaping the whirlwind. If you go on preaching and recommending law-breaking to ordinary people, then, in times of public excitement, these people will think that Law and Order have gone and Government has ceased to function and they must take the law in their own hands and take to looting, rioting and to all sorts of violent crimes to their hearts' content. Sir, I want to submit that the public Press and the leaders of the Province have a serious responsibility in this connection. It is very necessary to inculcate respect for Law and Order in the minds of the common people. If you undermine it, then you undermine the very foundation of society and thereby pave the way for anarchy as it has invariably happened in every country and in every age.

With regard to the wording of the motion, I find with some amount of regret, that the words "Hindu" residents and "Hindu" shops and "Hindu" establishments have been given considerable amount of prominence. It is extremely regrettable that this word "Hindu" should have been given so much emphasis in a motion like this. We are already suffering from communal misunderstandings and communal bitterness and, in times like these, if we talk of oppression on "Hindus" or on "Muhammadans" as such, then I think the situation will not ease but will, on the contrary, deteriorate.

It would have been quite enough if only mention had been made about arson, oppression and loot without emphasizing the communal aspect. This would have served the purpose of the honourable mover.

It is regretted that such unfortunate expressions have come from a highly respected member of this House. He is well-known for the sanity of his views and the generosity of his mind and it is all the more regrettable that this needless but inflammable expression should have come from him. When the trouble is in the air, Muslims think in terms of Islam and Hindus think in terms of Hinduism. The tendency should not be encouraged.

I think, Sir, that the difficulty first arose in Dacca. It is impossible to know what actually happened there till a full enquiry has been made. I find from answers to questions that in the town of Dacca many more Muslims were killed and wounded than Hindus. The figures are very significant and I believe that probably some excesses were committed by the Hindus in the town of Dacca. I am not in a position to give any final verdict but I have drawn a provisional conclusion from the number of the dead and injured at Dacca and I believe that this serious news have filtered to the villages and possibly there has been some amount of retaliation on the part of those people. Then, Sir, there is the story about the desecration of mosques, the burning of a Muslim child and the like. I therefore believe that the mischief had started from Dacca and these outrages are the repurcussions of those incidents. I think, Sir, in these troublesome times it is better to keep our heads cool and take a dispassionate view of things and refrain from emphasising "Hindu" or "Muslim" viewpoints.

Now, Sir, Mr. Sachindra Narayan Sanyal has struck a completely different, and I believe, a happy note. He has said that ruffians belonging to both communities have taken part in these outrages. There I am inclined to agree with him. The hooligan took this as an opportunity to have a full play of their evil propensities. Rioters and hooligans do not act as members of any community. They are a class by themselves—they are law-breakers. They do not act as Hindus or Muslims as such.

Now, Sir, Mr. Lalit Chandra Das has sung a new and a refreshing note. He forgot himself so far as to invoke the drastic powers of the Governor under sections 52 and 57 of the Government of India Act. These two sections contemplate the suspension of the Constitution by the Governor and other drastic powers. In these uncertain times it is highly refreshing to hear Mr. Das showing so much faith in the Governor's powers. When a gentleman of his position—a staunch Congressman—has so much faith in the hated constitution given by the British Parliament, I think the Government of India Act is firmly established in this land. I think Mr. Das' reason for this faith is simple. The key to his mind lies in the suggestion that this Ministry should be dissolved and a new Ministry be formed. I would ask Mr. Das to give us a list of possible members of the Cabinet—a list of possible Ministers—including, of course, himself so that——

Mr. LALIT CHANDRA DAS: First dissolve the Ministry and immediately I will give you the names.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, we both belong to the same profession and I believe in payment in cash. I would like to know your cards before I lay mine. Now Sir, there was an attempt, I believe, to induce my Congress friends to join the Ministry but they somehow or other refused—not perhaps on personal grounds but possibly on grounds of policy. For if they joined a Ministry consisting of a few Muhammadans perhaps, they thought, their position in the country would not have been very safe. But if they now think that the Ministry should be changed, if they have really changed their hearts and desire to be Ministers, then that is a welcome sign and if they, instead of remaining away from the House as they are doing, would come to the House, and if they would show their willingness to take part in the administration of the country, none would be more glad than my humble self. (Mr. LALIT CHANDRA DAS: Then you support the adjournment motion?) Let us now come to the actual adjournment motion. The question is whether we are going to censure the Government on the grounds stated. Now, some riots have taken place; some huts have been burnt; some mosques have been destroyed and things of the type have happened in different places in the district of Dacca. The question is—can you blame the Government for this to the extent of invoking sections 52 and 57 of the Government of India Act? We know that in the past in the Congress Provinces more serious riots have taken place (Here the member reached the time-limit but was allowed a minute more to complete his speech.) and that those Governments were unable to check them (Mr. LALIT CHANDRA DAS: Question?) but there were no adjournment motions for them. Whereas, here in Bengal, a few riots of the most ordinary type have taken place. No doubt everybody regrets it, but, I submit, no case has been made out against the Government.

Khan Bahadur NAZIRUDDIN AHMAD: In these times, Law and Order have been set at naught and a few people have taken the law in their own hands. It is difficult for the police or the military to pursue the stray offenders here and there. We have seen what happened in the heart of Calcutta a good many years ago. For days and days together shops were looted, men were killed, houses were broken and there were all sorts of troubles. We know what happened at the Wellington Square two years ago when some nationalists assaulted some All-India Congress leaders. I therefore submit that no case has been made out to censure the Government by way of an adjournment motion.

Maulvi ABUL QUASEM: Sir, I rise to speak on the motion with inexpressible sadness in my heart. It is no pleasure to hear about the occurrences that are being reported in the daily papers and which have

been detailed to-day by Mr. Kamini Kumar Dutta who spoke from personal knowledge. No man, be he a Hindu or a Muslim, can look upon these things and consider these things without feeling profound sadness. It is not a question whether the Hindus suffer and the Muslims feel glad or whether the Muslims suffer and the Hindus feel glad. That sort of mentality is a diseased mentality. Human beings suffer, that is the question. Now, Sir, I have felt sorry to hear the imputation that agents from Dacca had gone to these affected areas to sow the seed of disaffection and to rouse Muslims to a sense of fury by unfounded allegations that Mr. Fazlul Huq had died, that some Muslims had been imprisoned while other non-Muslims had been treated in a different fashion. I do not know what truth, if any, there is in this allegation. The fact, however, remains that numerous people have been made homeless. They have been obliged to leave their villages and seek shelter in a neighbouring Indian State. It is a very sad affair and no right-thinking man can feel any emotion except that of sadness over these incidents. Sir, I do wish to express my wholehearted sympathy for those people who have actually suffered. Here, I must pay my tribute of respect, Sir, to Mr. Sachindra Narayan Sanyal who has in my humble opinion struck the right note, a note which I sadly missed in the speeches of my friends Mr. Kamini Kumar Dutta and Mr. Lalit Chandra Das. I wish they also spoke in the same strain as Mr. Sachindra Narayan Sanyal. Mr. Sanyal said that it was hooligans and ruffians who were active: not Muslims or Hindus as such. No right-thinking man can but condemn these people to whatever community or creed they may profess to belong.

Now, Sir, in the town of Dacca deplorable things have occurred and every one knows, as has already been pointed out by Khan Bahadur Naziruddin Ahmad, that the Muslims killed and wounded are larger than members of any other community. I know from personal knowledge—a relative of mine had a library in a Hindu quarter, he had a book-selling and publishing business and he has lost his all. Now, I do not wish to lay any blame at the door of the Hindus, neither do I lay blame at the door of the Muslims. But these incidents have occurred. Muslims have suffered no less than the Hindus in the Dacca town. The most sorrowful case is that Muslim children have been reported to have been burnt on funeral pyres, Muslim beggars and old grass-cutters, have been foully murdered. These outrages have occurred. I do not blame any particular community, either the Hindus or the Muslims, but these horrors have occurred.

Why do you ascribe the blame to the present Ministry? Could any other Ministry in these circumstances have done any better? Did not these things occur in the Congress-governed provinces? This Ministry for four years of its administration had kept the province singularly free from all these outrages and their administration was marked by complete freedom from these communal disturbances and now a situation

has arisen at the fag-end of the Ministry when their normal life is about to come to a close, when these most unhappy and regrettable incidents are happening and you lay all the blame at the door of the Ministry. I must say that Mr. Lalit Chandra Das and Mr. Kamini Kumar Dutta are speaking as mere party men, and not as responsible citizens; otherwise they would not have said that the Ministry were responsible for this state of things.

Mr. Lalit Chandra Das fell foul of *Pakistan*. Mr. Das has conveniently forgotten that Hindustan is the original cry and *Pakistan* is the counter-cry. *Pakistan* did not come first. Hindustan alone, undiluted, uncompromising Hindustan was the battle-cry of the Hindus and Muslims have been compelled to resort to the *Pakistan* cry in self-defence. Some notable men by their activities and speeches spread the feeling that they would establish Hindustan in its literal sense, that non-Hindus must live in Hindustan on Hindus' terms; so Muslims insist on *Pakistan*. Muslims have been given notice that they must clear out of this land bag and baggage if they cannot bear and conform to the Hindu ideas and ideals. Now, a well-known leader of the Hindu Mahasabha has been going about the country and creating bad blood between the communities by needlessly provocative utterances.

Serious alarm has been spread among the Muslims. They are a minority community in India. They are being told in language which no one can mistake that they must not carry their loyalties, allegiances and reverences in religious and spiritual matters beyond the confines of Hindustan. Muslims are being told that they take their mandate from Afghanisthan, Iraq, Arabia and other places. I do not know that any sane Mussalman looks beyond the shores of India to receive his orders as regards his political future. Everyone knows that Muslims all over the world constitute a religious brotherhood. That is the cardinal and central fact of their Faith but that has not led them to forget their own proper loyalty to the country which has given them birth and shelter and nurture. Sir, where is the Mussalman who is false to his country? He is a non-existent and imaginary being. Again, you have got a very powerful Press and what does your Press vend out morning after morning? Is it not condemnation on every pretext of the present Ministry and the Cabinet? But, Sir, may I ask: who compose the Ministry? There are no less than four Hindus in the present Ministry of nine—no less respectable, no less responsible and no less loyal to their own community and religion than any Hindu. The Hindus do form a powerful and influential part of the present Ministry. The Hindu and the Muslim have been almost equally represented in the Cabinet from the beginning, but the so-called Hindu Nationalist and Congress Press has never seen anything good in the Hindu Ministers. This is, Sir, how the Press has treated the Hindu Ministers of the present Cabinet. And the result is that the Hindus in the country have taken the cue from them that

nothing good can be had from the present Ministry and they have nothing but hatred and indignation against them, although it is this very Ministry that has given them every freedom and liberty to pursue their mischievous ends. It is your Press and your platform which are sowing deliberately seeds of strife—between the communities and the sooner you realise this unpleasant truth the better for all concerned. (Interruption.) Well, Sir, all I say is that I do heartily sympathise with the unfortunate sufferers and I do say also that Government should take strong and effective measures against all rioters and disturbers of the peace and deal with the evil-doers in such a way that riots may not easily occur again. But, Sir, the political capital that has been sought to be made out of the present troubles and the partisan spirit in which the remedy has been suggested, namely, that the Ministry should be dissolved and replaced by a so-called Nationalist Ministry show that the movers of the motions are not desirous so much of ending the present unhappy state of affairs as of serving their own party ends. That spirit cannot surely command our respect and attention and I therefore oppose the motion.

Mr. BIRENDRA KISHORE ROY CHOWDHURY: Sir, I rise to support the adjournment so ably moved by my friend Mr. Kamini Kumar Dutta. Sir, I have received a letter from some persons in the interior of Mymensingh. May I, with your permission, read the letter which is written in Bengali?

Mr. PRESIDENT: Yes, you may.

***Mr. BIRENDRA KISHORE ROY CHOWDHURY:** It runs as follows:

বিনীত নিবেদন এই, জিলা ময়মনসিংহের মহকুমা কিশোরগঞ্জ ভৈরব থানার অন্তর্গত ৬ নং গজারিয়া ইউনিয়ন অবস্থিত। উক্ত ইউনিয়নে আমরা অল্প কয়েক ঘর হিন্দু অধিবাসী অনেক বৎসর যাবৎ বসবাস করিয়া আসিতেছি। কতক দিন হয় আমাদের ইউনিয়ন হইতে ৩।৪ মাইল দূরে ঢাকা জিলার অন্তর্গত কতকগুলি গ্রামে মুসলমান গুণ্ডা কর্তৃক দিন দুপুরে হিন্দুদের বাড়ী ঘর ভস্মীভূত ও লুটতরাজ হইয়াছে ও হইতেছে। পরম্পর জানিতে পারিলাম এতদঞ্চলের মোসলেম গুণ্ডারাও উক্ত খবর পাইয়া উত্তেজিত বলিয়া মনে হয়। এবং জনরব এই যে আমাদের ইউনিয়নের হিন্দুদের বাড়ী ঘরে আগুণ লাগাইয়া দিবে এবং লুটতরাজ করিবে। এমতাবস্থায় মুষ্টিমেয় হিন্দুদের ধন সম্পত্তি ও প্রাণনাশের আশঙ্কা অত্যন্ত বেশী। আমরা সশঙ্কিত অবস্থায় আছি। কখন কি হয় বলা যায় না। গতকল্য রাত্রে আমাদের গজারিয়া ইউনিয়নের অন্তর্গত বাঁশগাগী গ্রাম নিবাসী রাজুশীলকে দুর্বৃত্তগণ আক্রমণ করিয়া তাহাকে গুরুতর মারপিট করিয়া ধনদৌলত নিয়া গিয়াছে।

*Authorised English translation of this will be found in the Appendix.

অত্রাবস্থায় এই আসন্ন বিপদ হইতে দয়া করিয়া আমাদিগকে বাঁচাইবার ব্যবস্থা করুন। নতুবা আমাদের প্রাণনাশ ও ধন সম্পত্তি ধ্বংস হইয়া যাইবে।

জ্ঞাতার্থ নিবেদন ইতি ২৩।১২।৪৭ বাং।

বিনীত নিবেদক—

শ্রীহরিমোহন ধর,
গ্রাম গজারিয়া,
পোঃ সিমুলকান্দি।

Sir, it does not require many words to say that the Government of Bengal has failed to maintain law and order not only in the city of Dacca but in the outlying villages as well. Sir, it is not only an elementary function of the Government to maintain peace and order but it is the first and foremost duty of the Government, which is predominantly Muslim in character, to give protection to the Hindu minority in the districts of this province. It is unfortunate, Sir, that although for the last three weeks the rioters and other miscreants have been at large in the city of Dacca, the Government has found it impossible to cope with the situation. Sporadic cases of stabbing are still continuing and the atmosphere of uncertainty and alarm still prevails in the second city of Bengal.

Sir, I remember the sad case of the riots which broke out in the town of Chittagong in 1930 under the very nose of its District Magistrate and in the absence of the Divisional Commissioner. On that occasion as the latter functionary returned to town and became confronted with the gravity of the situation, he immediately became determined to stop the riots and restore peace within as short a time as possible. I actually remember, Sir, that he asked the guardians of Law and Order in the town to stop riots within four hours and, exactly within four hours, the riots were stopped and peace was restored. If this could have been done, Sir, in the town of Chittagong in 1930, I have no doubt that if the Government and its agents in the city of Dacca had minded their business as properly and as efficiently as they were expected to have minded, the situation in the second city of this province would have been far otherwise than it happens to be even to-day. Not only the Government and the local executive officers lacked vigour and promptitude, but what is more it appears that vigour and promptitude were not the virtues which the Government appreciated in the least in its executive officers during the last few weeks. The Additional District Magistrate who rose equal to the occasion and was bent upon dealing with the miscreants with the ability and vigour that was expected of him, was transferred from the district by

telegraphic order. Such an action on the part of the Government could not certainly be inspiring to other local officers. It only made them lax in their duties and negligent in their functions.

It is unfortunate again, Sir, that while the news as to the incidents at Dacca and the outlying tracts has not been allowed to be freely published in the newspapers, the members of the Government themselves have given publicity, an undue publicity, to the desecration of one or two mosques in the city of Dacca. I wonder, Sir, if this publicity has not been responsible for the outbreak of the heart-rending incidents in the villages of the Narayanganj subdivision. The Muslim miscreants in those areas, flushed with the spirit of revenge, set fire to the Hindu houses and created atrocities among the Hindu population. Sir, we are still in the dark as to what exactly happened in these villages. It only appears to be true that these atrocities must have been so serious as to drive out several thousands of Hindus, men, women and children, from their village homes to distant territories for shelter and for safety. Nearly one thousand have gone over to the town of Comilla and nearly ten thousand have taken shelter in the hospitable territories of His Highness the Maharaja of Tripura.

The Premier, Sir, has in his statement referred to the steps that he has already taken for restoring peace and order in the localities that have suffered so much from the hands of the miscreants. He has boasted that a batch of military pickets has been brought over from Chittagong to these villages. But is it not a fact, Sir, that although these pickets have been posted in these areas, they have no order to fire? What with the prompt transfer of the Additional District Magistrate from Dacca and what with the restrictions on the exercise of power by the military pickets, the furious Muslim crowd still feel encouraged to go on with its atrocious activities.

Sir, it is painful to think of what has happened to the city of Dacca and what has spread to the outlying villages with greater fury. But it is more painful still to think of the ineptitude of the Government at this trying hour. It is more than surprising, Sir, that the steps which ought to have been taken have not been taken by the Government and the steps which ought to have been avoided have been taken with gusto by our Ministry. While the Press has been gagged and all publication of authentic news has been stopped, the local agents of Government have merely looked on helplessly and hopelessly upon the poignant scenes that have been enacted in the villages of Narayanganj. It seems the present Ministry of Bengal is allowing the condition of things in Bengal to take a turn as it did take in the province of Sind some time ago. It certainly does not redound to the credit either of the Ministry or to the electorate from which it derives it authority and to which it claims to be responsible.

Mr. NUR AHMED: Sir, with a heavy heart I rise to speak a few words on this adjournment motion. We regret very much the outrages committed on the innocent people by the hooligans; to whichever community they belong no Muslim can support such excesses and display of hooliganism. It is prohibited by the Muslim religion that no one should lay hands on innocent persons or take away anybody's property. As has been said in this House, these hooligans form a class by themselves. They do not really belong to any particular community. But it is much to be regretted that in this House an attempt has been made to establish a case that these hooliganisms and these vandalisms have been engineered by some interested Muslims and it has also been hinted at that the Ministry has allowed these things to go on without taking proper steps in time. Sir, we do not agree with that observation. It is absurd to suggest for a moment that the Ministry did not move in the matter. Those who have gone into the history of these riots, the display of hooliganism in the past, must admit that however well organized a Government may be, they cannot prevent or put a stop to these at the very outset while at the same time it must be said to the credit of this Ministry that they have checked and brought it under control within the shortest time possible.

I am sorry to observe that some extraneous matters have been brought in to-day's discussion which should not have been brought at this critical juncture, and one such matter is the question of suppressing one community by another that has been introduced in the speech of no less a person than the Leader of the Opposition, Mr. Kamini Kumar Dutta. I think he was a student of history. If so he would admit that Muslims as a Nation never contemplated that nefarious act of killing another community. In the history of Islam he will never find a single instance that Muslims have extirpated any other race in the face of the world, though it may be true of other Nations. It still stands to the credit of Islamic record, brilliant and glorious record and that record has not been blurred by any such thing. To-day look at the record of Muslims which reveals a sad picture as regards their position in India. What do we find to-day? In Delhi, Agra, Gour and Murshidabad, the Muslims ruled and exercised their power as Rulers of the land so long. But where are they? They are now in a minority, hopeless minority. In those days the Muslims had no intention of destroying the Hindus nor could the Hindus do so now. But the Hindus could have done so; it would have been possible for the Hindus to do so when Ben Kasim landed in Sind in 711 A. D. if the Hindus could have combined but they could not check the on-rush of Islam then. But when that time is gone and when the Muslims now form one-third population of India it is madness on the part of anybody to think that the 9 crores of Muslims should be driven out of India. This point has also been touched by my friend Maulvi Abul Quasem. We often find speeches and writings of some of the great politicians of

India indicating the idea of the establishment of a Hindu Raj. A few days ago no less a person than Mr. Obidulla Sindhi, about whose patriotism and nationalism nobody can have any doubt, issued a statement to the press that there is a huge conspiracy to establish Hindu Raj in India by a class of politicians who pose themselves as the greatest spokesmen of Indian unity to carry out their ideas in actual practice. That is a statement coming from a patriotic statesman who was exiled from India for his patriotism and nationalism and has only returned to India some years ago. A statement of his cannot be lightly disregarded.

Sir, these ideas are responsible for such acts of hooliganism, these sorts of communal frenzies which we are now to our great shame witnessing in India. I appeal to every Party leader in this House, every leader of the country to give up those ideas, and they should entertain fondly the idea that Muslims will live in this country along with the Hindus. They must live as good neighbours. The economic progress, the political advancement of India depend on amity and good relations between the different communities. Sir, another most important fact has been given out by Mr. Das and I find that at last the cat has gone out of the bag, that is, Mr. Das wants that the Governor should take the rein of Government at once and dissolve the Ministry. We have been reading in the *Amrita Bazar Patrika* and in to-day's *Hindusthan Standard* that very thing, namely, that the Governor should take the rein of Government and dissolve the Ministry. Sir, we do not know how he has deviated from the Congress policy. The Congress before it took office wanted an assurance from the Government that they should not interfere in the internal administration of the Congress provinces. How then can Congressmen come before the House and say that the Governor should take over the management of these provinces, I fail to understand. We really regret these incidents at Dacca and all right-thinking men want to check these acts of hooliganism.

The Hon'ble Sir BEJOY PRASAD SINGH ROY: Mr. President, Sir, need I begin with the assurance to the House that Government regret the situation most sincerely and deplore the fact that the peace and tranquillity of this province, in the maintenance of which during the last four years the present Ministry took so much pride, has at last been disturbed and disturbed in a very rude way. Sir, Government offer their heartfelt sympathy to the unfortunate sufferers, be they Hindus or Muhammadans, and I believe that I have the support of members belonging to all sections of the House in this expression of sympathy. Sir, the honourable mover of the motion made an appeal to the members not to accept the motion in a communal spirit. He assured us that his sole object in moving this motion was to place before the

House certain incidents that had occurred and to show how Government had failed to give protection to people in some parts of the Dacca district though their life and property were in danger.

Sir, I will not try to reply to the vague allegations made by certain honourable members in speaking on this motion, but I will try to confine myself to the text of the adjournment motion. First of all, I would request the House to bear one fact in mind, viz., the statement of the Hon'ble Leader of the Opposition that Maulvis and other mischief-makers were going about exciting communal feeling in this particular area for some days past and that they were allowed to carry on their nefarious activities unchallenged. That is not a fact: at least the Government so far have no information in support of these allegations. It is a fact, however, that communal tension was running high because of the incidents in Dacca city and it suddenly burst out. Now, I would request the House to study the whole situation with reference to certain facts, namely, the area and population of the Shibpur and Raipura Thanas and the number of Police force available there in normal times. The area of the Shibpur thana is 88 square miles and that of the Raipura thana 121 squares miles. The population in these two areas is 90,000 and 189,000 respectively. (Mr. LALIT CHANDRA DAS: what is the percentage of the population in terms of Hindus and Muslims?) That is absolutely immaterial. (Mr. LALIT CHANDRA DAS: But will the Hon'ble Minister kindly not tell us?) No, I do not know the percentage of the two communities.

The number of police officers that is available in these two thanas and who are expected to deal with the normal crime in Shibpur thana is: two sub-inspectors, one assistant sub-inspector and seven constables; while the force in Raipura thana consists of two sub-inspectors, one assistant sub-inspector, and six constables. That is the police force, Sir, in these two areas. The trouble first started in this area on the 1st of April. On the 1st of April at about 9-35 p.m. a telegram was sent by the Station Master of Khanabari Railway Station on the Assam-Bengal Railway saying that a riot had started and that there was every danger of that station being attacked. On receipt of this information the officer in charge of the Raipura thana was wired to take action immediately. On the 2nd April at about 10-25 a.m. the officer in charge of the Raipura thana reported that trouble was brewing at Rahimabad. He was asked to mobilise the forces of four neighbouring thanas and the Additional District Magistrate at about 8 p.m. went to that locality. He was attacked and on the very same day the Assistant Superintendent of Police, Dacca, with 50 men went to the area from Dacca. I would, therefore, request the House to bear in mind if any time was lost in taking steps. The moment information reached the authorities, the machinery of Government was set in motion and all available help was sent at once.

Then the Superintendent got into touch with the Deputy Inspector-General of Police and arranged to send 50 Frontier Rifles men and armed police from Chittagong. Since then forces have gone from Burdwan, from Barrackpore area and from Chittagong. There are at present five columns operating in the area and about 375 men including one company of Mahratta Regiment is stationed there.

Mr. LALIT CHANDRA DAS: Any arrests made?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Many. These are the facts which I would request the House to bear in mind. It is no use making such sweeping generalisations and allegations without any corroboration, that Government have failed to take action. Government have taken all possible steps within the shortest possible time. It is a fact that many people have suffered seriously, their houses and properties were destroyed and a large number of people had taken refuge in Tipperah State. But I am glad to say that the situation has been brought under control and a number of refugees have already come back and others are slowly coming back. That shows that the situation is improving. Relief measures have also been taken. The Personal Assistant to the Commissioner, with the help of some of the local people, has been put in charge of the relief operation.

I will now turn to an allegation made by my friend Mr. Kamini Kumar Dutta. He alleged that the mischief-makers and rioters were given assurance that they could carry on their activities with impunity. That was the impression and that was the inference that the Leader of the Opposition, Mr. Dutta, says he, has reasonably drawn from the facts he had gathered from the people in the locality! I think, Sir, a responsible leader of his position should hesitate twice before making such a general and sweeping observation. May I ask who gave that assurance? Was it Government? Is it his insinuation that the Ministry in Calcutta or its representatives in Dacca gave that assurance? I would ask him to say "Yes" or "No". (At this stage Mr. Lalit Chandra Das interrupted.) Sir if Mr. Lalit Chandra Das interrupts me in this way, then I shall have to resume my seat.

Mr. PRESIDENT: The general principle to be observed in such a matter is that if anybody wants to put a question, it can be done only if the speaker gives way; otherwise I cannot allow any questions to be put.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Mr. Sachindra Narayan Sanyal talked of indifference on the part of the local officers. Sir, on the 1st April the riot started in Raipura and

Narsinghdi: on the 2nd April the Additional District Magistrate proceeded and he got hurt. The officer in charge of the Raipura police-station also got hurt. Does this show that the officers were indifferent or does it show that they were anxious to discharge their duty even at the risk of their own lives? Could any one else in the position of these officers do better?

Mr. LALIT CHANDRA DAS: May I interrupt the Hon'ble Leader of the House for one moment?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I refuse to yield.

Mr. PRESIDENT: Once more I would draw the attention of Mr. Das to the fact that it is the right of the speaker to give way or not. If he does not give way, I cannot help it.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: As I was submitting, could any one else in the position of these officers have done better?

The whole communal situation, unfortunate as it is no doubt, should be studied against the background of the activities of some of the communal leaders during the last few years and a section of the Press. Sir, it is no use trying to shuffle milk and honey. I believe in straight talks and if my friends want straight talks, I am prepared to give them straight talks in reply.

Sir, the fact that the present Ministry has been in power has given a very great shock to certain members of the Hindu community, though the Ministry consists of Hindus and Muslims in equal numbers barring of course the Chief Minister, a Muslim. That is how we started. But that did not satisfy my friends opposite. The very fact that they were dislodged from position of authority to which they felt that they had a monopoly made them start an agitation and when Mr. Lalit Chandra Das said that the present Ministry should be replaced by another Ministry consisting of the Nationalist Hindus and the Nationalist Muslims, he gave away the whole case.

Sir, the entire community, the whole country is faced with a very serious situation, with a very grave danger which we all deplore and, if my friends opposite want to play the part of a Constitutional Opposition and not that of mere critics, it is up to them to help the Ministry in tackling the situation and not to embarrass it. To play the part of mere critics is unpatriotic in the present circumstances, I make bold to say. If an independent Nation is faced with a similar situation, all parties would put their heads together, would pool their resources and would never try to embarrass the Government of the Country or the party in power, as in this case here.

Sir, it has been suggested that His Excellency the Governor should intervene under certain sections of the Government of India Act. I would put it to those who made such suggestions, where were they and what did they do when the Congress Ministries in the Congress-governed provinces were faced with similar situations? Was there any whisper from the Congress quarters that the Governor should assume responsibility under section 93 of the Government of India Act? In 1926, the Governor of Bengal administered the Law and Order Department with the help of a Member of the Executive Council and no suggestion of the weakening of the executive because of communal bias could be put forward. The situation even at that time was really serious in Calcutta. For four weeks if not more riots continued in this city. The Police forces of the whole of Bengal were at the disposal of Government. The Calcutta Police is highly efficient, the Commissioner of Police had almost unlimited powers in controlling the riot situation. But even he could not control it within a month. In Dacca, every attempt is being made, I can assure my friends opposite, to bring the situation under control and it has, I submit, now come under control. I would beg of you not to embarrass Government. If politicians are out to exploit the situation for party purpose, God help this country. If, on the other hand, they are prepared to offer their co-operation, advice and suggestions, Government would gratefully accept them and do all they can to bring the situation to a normal state as early as possible. But I hope, Sir, the House realises that it is not possible for the Government agencies alone to control the riot, unless there is full and sincere co-operation from different sections of the community but that co-operation is unfortunately lacking. (Mr. SACHINDRA NARAYAN SANYAL: But you do not accept any co-operation from us.) We are anxious to accept co-operation. So, if the establishment of peace and tranquillity, if improvement of the communal situation is your sole object, then give up for the time being, the talk of Ministry-baiting. You have played the game of Ministry-baiting too long and too far and I may tell you that by that you have created a tension of feeling which is largely responsible,—I should not say solely responsible, for that would be unreasonable,—for this unfortunate situation. Give up such tactics and Government will control the situation. Sir, I oppose the motion.

Rai Sahib JOGENDRA NATH ROY: Sir, I rise to support the motion moved by my honourable friend Mr. Kamini Kumar Dutta.

The horrible incidents that have occurred and are still occurring is a shameful failure on the part of the Ministry of the Hon'ble Mr. Huq. What has happened in the town of Dacca is by this time known to us all. But, Sir, the incendiarism, arson, looting, inhuman torture towards women and children that are going on in the Narayanganj subdivision are heart-rending beyond words. The picture that

we get from these incidents is extremely painful and to try to describe them is beyond all power of language. It is suspected that all these atrocities have originated from the nefarious designs of some responsible gentlemen and the conflagration that has started is causing havoc, unspeakable beyond words. Sir, according to the statement made by the Hon'ble the Chief Minister, two villages have been reduced to ashes, and several *paras*—presumably Hindu *paras*—have been wiped out in several villages and the executive could not control the situation. Hooligans in hundred and thousands, armed with deadly weapons, have attacked men, women and children. Many of them, who could escape, have fled away helter and skelter leaving behind all their belongings. And in the case of those who could not escape, the ferocious and brutish mob had, according to our information, molested, raped and mutilated some of them and some had to submit to forced conversion. Properties have been looted and their ancestral homes burnt to ashes. Such is the fate of our brothers, sisters and poor children in the district of Dacca under the administration of the present Ministry and we have been left with no other remedy but to heave a deep sigh for those ill-fated souls. The example of self-Government that has been exhibited by the Ministry of Bengal shows their utter incapability in guiding the administration of a province. It is alleged that no Hindu below the age of 40 is being allowed to go to the locality, while there is no such restriction imposed on the Moslems. Of course, I have very little faith in this sort of accusation. This fact alone, if true, increases the suspicion that the slogan of *Pakistan* of the Muslim hooligans is supported by the executive under the Hon'ble Mr. Huq. High public officials and constables have been stabbed and wounded, but nothing drastic had been done to counteract such acts of rowdyism, as if the rowdy elements are let loose to cause all sorts of havoc on the public and any step to stop such atrocities, it seems to one, is forbidden by the Huq cabinet. Sir, I refrain from enumerating the hundreds of incidents, each and every one of which will remain a gaping wound undressed at the bidding of an indifferent Ministry. One other fact shows that the evil design of the *Pakistan* supporters is to gag the Press altogether. The impression of many is that the Ministry is not giving a correct version of the awful situation. The result has been that the nefarious *Pakistan* design is proceeding apace and the public are kept in utter ignorance of the situation. I do not know whether there is any parallel in history of such atrocities being perpetrated under the regime of any responsible Government at any time. The poor Hindus are left to their fate. The poor Hindu minority in Bengal have all along fretted and complained against communal electorate and to-day the Dacca riot has proved their contention. Had there been a joint electorate, the Ministry of the Hon'ble Mr. Huq would have been more vigilant to suppress the riot at the very beginning. It is high time for the Ministry to realise that if this sort of communal

tension be allowed to grow, it will surely ruin both Hindu and Muslim interests in the long run. I cannot do better than to appeal from Philip drunk to Philip sober to stop these atrocities. These gaping facts not only prove British inefficiency to rule over India but also shows Muslim incapacity to administer Law and Order of a province like Bengal. At any rate, I appeal to the Cabinet to withdraw the ban against the Press, so that the minds of the public may not be poisoned with false rumours.

With these words, Sir, I support the motion so ably moved by the Leader of the Opposition.

Mr. AMULYADHONE ROY: Sir, on account of indisposition I had no intention to take part in the debate. [The Hon'ble Sir BIJOY PRASAD SINGH ROY (in an undertone): Who asked you to speak? Why not sit down and listen?]

Sir, I may tell the Hon'ble Acting Home Minister of the Government of Bengal that I am not under his control and that if I am to be controlled by anybody, it is the Chair and none else. (The Hon'ble Sir BIJOY PRASAD SINGH ROY: I mean, practise self-control.) Sir, I would, like the honourable member who moved the motion, also appeal to the honourable members of this House on all sides to look at this matter not from any communal point of view. Sir, in spite of the reply of the honourable Minister in a state of fury, the charge that has been made against the Government, the allegations that have been made by the honourable mover still remain unaswered. The fact is that the honourable mover has made it quite clear before the House that about a week ago information was given to the thanas that a riot was likely to take place. In all seriousness I would ask the Hon'ble Minister whether this is a fact and if this is a fact, then the Ministry in spite of the advocacy of Khan Sahib Abul Quasem stands condemned. Whatever line of argument the Hon'ble Minister may take, whatever argument he might advance, the fact is that the Ministry stand condemned to-day over these riots. The fact that 9,000 people have taken shelter in an Indian State—that fact itself—is quite a sufficient ground for condemning the Ministry.

Now, Sir, I want to reply to some of the remarks of my friend Khan Sahib Abul Quasem——

Mr. PRESIDENT: Order, order. He is not a Khan Sahib.

Mr. AMULYADHONE ROY: I respectfully submit, Sir, that he is a Khan Sahib.

Maulvi ABUL KASEM: It is a fact, Sir; but I humbly request my friends through you that I may be spared that compliment.

Mr. AMULYADHONE ROY: However, Sir, I am not going to take up much of your time. I want to know from the Hon'ble Leader of the House whether the information was lodged to the thana about a week ago, as was stated by Mr. Dutta?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The answer is an emphatic "No".

Mr. AMULYADHONE ROY: Still I want to know whether he is giving this reply of emphatic "No" after enquiry or from his own impression?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: After enquiry.

Mr. AMULYADHONE ROY: Sir, I do not want to take up the time of the House any longer and I resume my seat.

Mr. JATINDRA MOHAN SEN: Sir, I beg to support wholeheartedly the motion which has been so ably moved, with facts and figures, by my friend Mr. Kamini Kumar Dutta. Before giving out the facts he appealed with all the vehemence and earnestness at his command for looking at the matter from a non-communal standpoint, and then he proceeded gradually to place the facts before the House. The fact that Mr. Kamini Kumar Dutta has given out a lot of information to this House cannot be denied. But before we deal with this question which is now being discussed, I would only ask the House to remember that when Mr. Dutta tabled this motion yesterday and when you, Sir, wanted to know if anybody had any objection to this motion being discussed, we found with regret that the honourable Whip of this Council protested and raised his voice against this discussion. Now, Sir, that shows the mentality of Government. The fact is there that atrocities had been committed—unheard of atrocities and outrages have been committed and this House desired that fuller information should be had from the Government and the matter be discussed calmly and dispassionately on the floor of this House. But to our regret we found that Government was not in a mood to allow the House to discuss this motion. This is a significant attitude of Government which I hope my friends on the other side of the House will not fail to take note of.

Then, Sir, there is another matter to which I would draw the attention of the House, namely, that when we are discussing such an important matter we find that only two Hindu Ministers are present in the House. The whole matter which is being discussed is of supreme importance so far as the administration of the province by the present

Cabinet is concerned, but to our suspicion we find that only two Ministers, the Hon'ble Sir Bijoy Prasad and the Hon'ble Mr. Raikut, are present to hear our speeches and it is for Sir Bijoy to give the reply. As a matter of fact, I had expected that some Moslem members forming the Cabinet were present to hear the discussion on the floor of the House. I feel, Sir, it is not merely a formal matter; I strongly feel that the other members of the Cabinet should have been present to gauge the feelings which are agitating the minds of certain sections of this House.

Now, Sir, I come next to the statement of the Hon'ble Sir Bijoy Prasad when he said that if he had received more support from his community, then his position would have been very much better and that the position of the Hindu members who are represented on the Cabinet would have been stronger. But my submission with regard to this grievance of the Hon'ble Sir Bijoy Prasad is this. We thought that he was a host in himself and that he would have been quite sufficient for the purpose of safeguarding the interest of the Hindu. Sir, I do not know whether the task of answering this motion has fallen to his lot either as a reward or as a penalty. I for myself feel, Sir, that probably most of the Ministers are absent because they are ashamed to face the House to-day. (Maulvi ABUL QUASEM: Question!) You may question it but the facts are there. This is a most important motion that is being discussed in this House to-day and it is very unfortunate (I must say with a degree of vehemence) that it is most unfortunate that it has fallen on Sir Bijoy to answer the charge against Government in a matter like this.

Now, Sir, with these preliminary observations, I shall now take up the main subject of the motion. The motion is that there have been heartless atrocities committed near about Dacca. Mr. Kamini Kumar Dutta has made it absolutely clear that the distance by railway could be covered within two hours and all the places where these atrocities have been committed are within a very short distance from several railway stations. The Hon'ble Sir Bijoy Prasad has said that the Government made attempts and that as a matter of fact did all they could do for the purpose of bringing up detachments of force to stamp down the uprising. But my humble submission to this House and to the honourable members is this that a mere statement that attempts have been made will not be sufficient to convince us that really such attempts had been made. We must judge everything by the result. Are we to believe, Sir, that the whole force of the Government, in this connection I may mention of the British Government, was at their tether's end so that relief could not be brought to the people within the Dacca district very near the Dacca town, with the result that molestations and perpetrations of crimes should continue for days and days together without being put a stop to?

Now, Sir, it is very easy to say that we made all attempts. As I said, Sir, we must judge all attempts, all actions by the result. It has been said, Sir, by more than one member that in the Congress Governments there were such riots, such lootings, such bloodsheds but, I should ask, would that be a precedent to go by and should that be a justification for the present Ministry? I pause for an answer. I do not mind whether the Ministry is a Congress Ministry; I do not mind whether it is a Muslim Ministry; what I want is that whoever holds the reins of the Government should shoulder the responsibility for maintaining the peace and tranquillity and for keeping the life and property of the people of the country safe. The work of administration is not an easy matter; had it been so, then any one and every one from the street could have been picked up for the purpose of forming the Ministry. It is a very responsible task and it will not do to say that in such places atrocities have been committed and the Ministry could not control it. I am not to be satisfied with such sort of answers. I want to know and as a matter of fact, I am very sorry to submit that I still remain unconvinced with the statement which Sir Bijoy took the trouble of placing before the House. I am strongly of opinion that the Government has really failed to take note of the situation beforehand, though they had directly or indirectly been informed of the same. It will not do to blame the members or the public leaders. It will not do either to say that a wrong has been committed by the Press; for the Government has ample power to control the Press. They have already done so. If instead of that, Press had remained uncontrolled, if the public leaders had remained uncontrolled going round the country disseminating or fomenting communal feelings, I must say that the Government is to blame and the Government must be held responsible for it. So, my submission to this House is that with due respect to what has been said by Sir Bijoy, I still remain unsatisfied and I therefore support this motion.

Mr. MESBAHUDDIN AHMED: Sir, I move that the question be now put.

Mr. PRESIDENT: The question before the House is that the question be now put.

Mr. BANKIM CHANDRA DUTTA: On a point of privilege, Sir. I had stood up before the Chief Whip moved that the question be now put.

Mr. KAMINI KUMAR DUTTA: Sir, have I not got a right of reply?

Mr. PRESIDENT: As regards the point of privilege raised by Mr. Bankim Chandra Dutta, I may say that the motion that the question be now put may be moved at any stage of the proceedings even in the midst of a speech, subject to a right of reply by the mover.

Order, order. The motion before the House is: that the question be now put.

A Division was then challenged and taken with the following result:—

AYES—22.

Ahmed, Khan Bahadur Nazirudin.	Jan, Alhaj Khan Bahadur Shaikh Muhammad.
Ahmed, Mr. Mesbahuddin.	Khan, Khan Bahadur Muhammad Asaf.
Ahmed, Mr. Nur.	Laidlaw, Mr. W. B. G.
Aziz, Khan Sahib Abdul.	Molla, Khan Sahib Sahidali.
Barua, Mr. Dhirendra Lal.	Quasem, Maulvi Abul.
Chowdhury, Mr. Khorshed Alam.	Rahman, Khan Bahadur Ataur.
Chowdhury, Mr. Humayun Reza.	Rashid, Khan Bahadur Abdur.
Chowdhury, Khan Bahadur Razzaqui Haider.	Scott-Kerr, Mr. W. F.
Cohen, Mr. D. J.	Shamsuzzoha, Khan Bahadur M.
Hossain, Mr. Latafat.	Singh Ray, The Hon'ble Sir Bijoy Prasad.
Hossain, Mr. Mahomed.	Talukdar, Dr. Kasiruddin.

NOES—12.

Das, Mr. Lalit Chandra.	Ray, Rai Sahib Jogendra Nath.
Datta, Mr. Bankim Chandra.	Ray, Dr. Kamud Sankar.
Dutta, Mr. Kamini Kumar.	Ray, Mr. Amalyadhone.
Goswami, Mr. Kanai Lal.	Ray Chowdhury, Mr. Birendra Kishore.
Kabir, Mr. Humayun.	Sanyal, Mr. Sachindra Narayan.
Maitra, Rai Bahadur Brojendra Mohan.	Sen, Rai Sahib Jatindra Mohan.

Mr. PRESIDENT: Order, order. The House has divided. Ayes being 22 and Noes 12, the motion for closure is carried.

Mr. KAMINI KUMAR DUTTA: May I now speak by way of reply, Sir?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Shall I not also have a right of further reply if there is time?

Mr. PRESIDENT: Yes.

Mr. KAMINI KUMAR DUTTA: Sir, it has indeed pained me to find that, while every one in this House was so anxious to discuss the motion in full, there was a demand from the other side of the House that there should be closure—apparently they were afraid of the disclosures and also of a free discussion of this very important matter in the House. My friend, the Khan Sahib (although he does not seem to feel very happy about this distinction) has talked of *Pakistan* and Hindustan. Sir, I, as a Congressman, condemn both Hindustan as well as *Pakistan* cries and accordingly, I have always condemned the

theory of *Pakistan*. But, Sir, may I briefly refer to one thing? May I remind the House that some one or two months ago two honourable Ministers of the present Cabinet did address a big gathering at Bhairab, which is adjacent to the very place where the riots have occurred, on the *Pakistan* movement and that the Moslem audience left the meeting with the impression that in Bengal a Muslim Raj was really going to be established? I am not concerned with the interpretation of "Pakistan", because I myself am not in favour either of Pakistan or of Hindustan, and I do most vehemently condemn this communal propaganda from whatsoever source it may come. We all know that with regard to communal propaganda the Ministers of the Government are not less guilty than anybody else. It has been admitted by Maulvi Abul Quasem that *Pakistan* is in reply to the Hindustan movement. It is an admission which makes us realise what the Coalition Party stands for.

Now, Sir, as to the statement made by the Hon'ble Minister asking me how I could attribute any sort of idea of impunity in the minds of the perpetrators of these outrages and by whom this idea of impunity was imparted. I may say that it is not possible to prove by direct evidence by whom this idea of immunity was given but reasonable and rational conclusion can be drawn from the facts themselves. And I think the Government *communiqué* itself is in support of my contention that there must have been some assurance of immunity. The facts prove that there was some such assurance. In the *communiqué* itself it is said first that detailed information is still lacking: then it gives out the fact that they have got some information, *e.g.*, "looting and arson is being committed by local men who disappear into their villages afterwards and melt away on the approach of police forces". It is apparent that they melted away because there was no more house to burn. So, the fact remains that the authorities could not get hold of the culprits—they melted away in the jungles—that there were local people who took part in these acts of incendiarism. But the most significant and strange thing is that in setting fire to the houses and markets, the hooligans did not use ordinary match sticks, as ordinary ignorant people would do, but they used a sort of white powder—a combustible substance—which would ignite automatically. Further, the mobs were organised and were completely under the control of intelligent brains. It cannot be the work of ordinary hooligans. It is said by Khan Sahib—or Khan Bahadur whatever he may be—Abul Quasem that these outrages have been committed by ordinary hooligans. But we on this side of the House also claim to have some common sense: we are strongly of opinion that these outrages were perpetrated by organised hooligans. It is an attempt to deprive the Hindu community of their properties—to cripple them economically. So it is apparent that there was an intelligent brain behind the movement and an intelligent brain

could not have undertaken to do it unless it had got some sort of assurance of immunity from any punishment. Then, Sir, the further fact remains that the authorities did not move till the morning of the 4th April, although the trouble started on the 1st April. This is also another proof in support of that fact. From the *communiqué* itself I find that strong forces of military and civil police were sent into the area by Friday morning. Friday morning is 4th April and the first act of incendiarism took place on the evening of 1st April, and as I have already shown in my statement, the places affected were easily accessible from Dacca, Chittagong, Comilla and Narayanganj by railway——

Mr. PRESIDENT: Order, order. Under section 102 of our Rules, the motion for adjournment will terminate automatically at the end of two hours' discussion. So, the discussion is closed.

Prorogation.

Mr. PRESIDENT: I have it in command from His Excellency the Governor that the Bengal Legislative Council do now stand prorogued.

Members absent.

The following members were absent from the meeting held on the 8th April, 1941:—

(1) Mr. Kader Baksh.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Mr. Srish Chandra Chakraverti.
(4) Khan Sahib Abdul Hamid Chowdhury.
(5) Mr. Hamidul Huq Chowdhury.
(6) Mr. Narendra Chandra Datta.
(7) Khan Bahadur Alhaj Khwaja Muhammad Esmail
(8) Mr. R. W. N. Ferguson.
(9) Khan Bahadur Saiyed Muazzamuddin Hosain.
(10) Khan Bahadur Syed Muhammad Ghaziul Huq.
(11) Khan Bahadur M. Abdul Karim.
(12) Maulana Muhammad Akram Khan.
(13) Sir T. Lamb.
(14) Dr. Radha Kumud Mookerjee.
(15) Mr. Ranajit Pal Chowdhury.
(16) Khan Bahadur Mukhlesur Rahman.
(17) Mr. J. B. Ross.
(18) Mr. J. McFarlane.

APPENDIX.

Authorised English Translation of the Contents of the Letter read out by Mr. B. K. Roy Chowdhury in the course of his speech on the Adjournment Motion.

"Sir, I beg to state that No. 6, Gajaria Union, is situated within the jurisdiction of the Bhairab police-station in the Kishoreganj subdivision of Mymensingh. A few Hindu families including ourselves have been living in the said union for many years. For a few days past Muslim *goondas* have in broad daylight been burning and looting houses belonging to Hindus who live in the district of Dacca, only three or four miles away from our union. I have come to learn from certain private sources that the Muslim *goondas* in this part of the country have, it is understood, also become excited at the said news and the rumour goes that they will set fire to and loot the houses belonging to Hindus in our union. In these circumstances the lives and properties of a handful of Hindus are exposed to great risks. We are living in a state of alarm. Nobody can say what will happen at the next moment. Last night, miscreants who attacked and seriously assaulted one Raju Sil of village Bansgari within the union of Gajaria left after having robbed him of his wealth.

In view of the above facts, we humbly appeal to you to take steps for protecting us against this imminent danger, failing which our lives and properties will be lost.

Forwarded for information, dated 23-12-1347 B.S.

I have the honour to be,

Sir,

Yours most obediently,

Hari Mohan Dhar,

Vill. Gajaria,

P. O. Simulkandi."

B. G. Press—1941-42—2984A—750.

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Address to Governor, motion for presentation of an—

Conveying a Message of sincerest rejoicings at the capture of Karen and Harrar by the Indian soldiers in the Near East. Pages 674-680.

Requesting him to make a strong representation to the proper authorities to revise and reduce the scales of pay for the All-India Services, by Mr. Nur Ahmed. Pages 545-549.

Requesting him to move the proper authorities to abandon the proposal to abolish the Kalukhali-Bhatiapara section of the Eastern Bengal Railway. Pages 552-560.

Adjournment motion(s)—

Formally moved for admission by Mr. Kamini Kumar Dutta regarding the burning and looting of the houses of Hindu residents in several villages in the district of Dacca and the consequent exodus to State of Tripura by the refugees. Pages 760-761.

Moved for discussion by Mr. Kamini Kumar Dutta regarding the burning and looting of houses of Hindu residents in the interior of the district of Dacca and the consequent exodus by those residents to the State of Tripura. Pages 785-814.

Moved by Mr. Sachindra Narayan Sanyal regarding a Government order prohibiting publication in the daily newspapers of all matters relating to communal disturbances unless passed by the Press Adviser. Pages 501-502.

Adjournment motion(s)—*concld.*

Moved by Mr. Sachindra Narayan Sanyal regarding the situation arising out of Government order prohibiting publication in the daily newspapers of all matters relating to communal disturbances in the province unless passed by the Press Adviser. Pages 577-608.

Moved by Mr. Lalit Chandra Das regarding a communal riot over the spearing of a Namasudra tiller by Muslims in Bagerhat, Khulna district. Pages 404-405.

Regarding arrests in the Saheb Bagan area by the police, brought in by Mr. Humayun Kabir. Pages 60-66.

Tabled by Mr. Kanai Lal Goswami regarding serious communal clash in the city of Dacca resulting in loss of life and dislocation of business. Pages 405-408.

Agreement between Government of Bengal and the Indian Jute Mills Association—

Question regarding—by Mr. Nur Ahmed. Pages 466-469.

Agricultural Loan—

Questions and supplementary questions regarding—by Khan Bahadur Saiyed Muazzamuddin Hosain. Pages 119-121, 125-128.

Gratis

Ahmad, Khan Bahadur Naziruddin—

Explanation given by—in connection with an amendment to the Bengal Local Self-Government (Amendment) Bill, 1941, making it clear that the High Court was not included in the expression "Civil Court." Page 690.

Objection taken by—to the admission of the adjournment motion of Mr. Lalit Chandra Das regarding the situation created by a communal riot in some villages in the subdivision of Bagerhat in the district of Khulna. Page 405.

Observation made by—on the point of order raised by Mr. Humayun Kabir about an amendment to clause 9 of the Bengal Local Self-Government (Amendment) Bill, 1941. Page 690.

Observation made by—in connection with the request of Hon'ble Mr. Mukunda Behary Mullick to take up discussion of the clauses of the Bengal Agricultural Debtors (Second Amendment) Bill, 1940, before the Easter Holidays. Page 727.

Question by—regarding extension granted to the staff of the Survey and Settlement Department. Pages 2 and 3.

Speech by—on the general discussion of the Budget. Pages 177-181.

Speech by—on the Third Reading of the Bengal Local Self-Government (Amendment) Bill, 1941. Pages 763-767.

Speeches by—on amendments to the clauses of the Bengal Finance (Sales Tax) Bill, 1941. Pages 473-474, 475, 481, 487, 490-491, 503, 507, 508-509, 511-515, 517-518, 522-523, 527-528, 530-535, 538-540.

Speech by—opposing the amendment of Mr. Humayun Kabir that the Bengal Local Self-Government (Amendment) Bill, 1941, be circulated for eliciting public opinion. Pages 415-417.

Speech by—opposing the amendment of Rai Bahadur Keshab Chandra Banerjee that the Bengal Finance (Sales Tax) Bill, 1941, be circulated for eliciting public opinion. Pages 374-375.

Ahmad, Khan Bahadur Naziruddin—*concld.*

Speech by—on the Third Reading of the Bengal Motor Spirit Sales Taxation Bill, 1941. Page 348.

Speeches by—on amendments to the clauses of the Bengal Motor Spirit Sales Taxation Bill, 1941. Pages 325, 327, 332, 335, 336, 338, 339, 342, 344, 345.

Speeches by—regarding clause 3 (*1*) of the Bengal Motor Spirit Sales Taxation Bill, 1941. Page 329.

Speech by—on Mr. Kamini Kumar Dutta's adjournment motion regarding the burning and looting of houses of Hindu residents in the interior of the Dacca district. Pages 793-795.

Speech by—on Khan Bahadur Ataur Rahman's resolution regarding Government contracts being given to Bengal Muslims on their population basis. Pages 737-738.

Speeches by—on the motion to take into consideration the Bengal Agricultural Debtors (Second Amendment) Bill, 1940. Pages 710-712.

Speech by—on the special motion regarding felicitations to Indian soldiers on their gallantry in capturing Karen and Harrar, moved by the Hon'ble Sir B. P. Singh Roy. Page 678.

Speeches by—on amendments to the clauses of the Bengal Local Self-Government (Amendment) Bill, 1941. Pages 645, 650, 651, 652, 657, 658, 659, 660, 661, 662, 667, 671, 672.

Speech by—on the Third Reading of the Bengal Finance (Sales Tax) Bill, 1941. Pages 621-623.

Speech by—on Mr. Sachindra Narayan Sanyal's adjournment motion about Government prohibition to publish Dacca riot news in the daily newspapers. Pages 585-586.

Speeches by—on amendments to the clauses of the Bengal Finance (Sales Tax) Bill, 1941. Pages 474-477, 478, 479, 480, 485, 487, 492, 495.

Ahmed, Mr. Mesbahuddin—

Amendments moved by—to the clauses of the Bengal Finance (Sales Tax) Bill, 1941. Pages 537, 539, 541.

Amendments moved by—to the clauses of the Bengal Motor Spirit Sales Taxation Bill, 1941. Pages 336, 337, 345, 346.

Amendment moved by—that Mr. Nur Ahmed's Court-fees (Bengal Amendment) Bill, 1941, be circulated for eliciting opinion thereon. Page 565.

Request made by—to adjourn the House for half an hour in order to come to a decision whether the Government should accept the Select Committee motion or circulation motion which had been tabled in connection with the Bengal Agricultural Debtors (Second Amendment) Bill, 1940. Page 704.

Ahmed, Mr. Nur—

Amendment moved by—to the resolution of Khan Bahadur Saiyed Muazzamuddin Hosain, urging the Government to purchase locally-manufactured articles for its use, in order to encourage the industries of the province. Page 458.

Leave asked for by—to introduce the Bengal Suppression of Immoral Traffic (Amendment) Bill, 1940. Page 570.

Motion moved by—that the Bengal Money-Lenders (Amendment) Bill, 1940, be circulated for eliciting opinion. Page 287.

Motion moved by—that the Eastern Bengal and Assam Disorderly House (Amendment) Bill, 1940, be referred to a Select Committee. Pages 272-273.

Motion moved by—that the Bengal Juvenile Smoking (Amendment) Bill, 1940, be circulated for eliciting opinion. Page 287.

Motion moved by—that the Bengal Municipal (Amendment) Bill, 1940, be referred to a Select Committee. Pages 270-272.

Ahmed, Mr. Nur—*contd.*

Motion moved by—that the Bengal Muslim Marriage Extravagant and Superfluous Expenditure Regulation Bill, 1940, be taken into consideration. Pages 265-266.

Motion moved by—that the Bengal Good Conduct Prisoners Probational and Temporary Release Bill, 1940, be taken into consideration. Pages 261-262.

Motion moved by—that the Agriculturists' Loans (Bengal Amendment) Bill, 1940, be taken into consideration. Page 258.

Motion moved by—that the Bengal Land-revenue Sales (Amendment) Bill, 1941, be taken into consideration. Page 563.

Motion moved by—that the Court-fees (Bengal Amendment) Bill, 1941, be taken into consideration. Pages 564-565.

Motion for introduction of the Court-fees (Bengal Amendment) Bill, 1941, moved by—. Page 287.

Motion moved by—that the Bengal Food Adulteration (Amendment) Bill, 1940, be circulated for eliciting opinion. Page 287.

Motion moved by—that the Usurious Loans, Bengal (Amendment) Bill, 1940, be circulated for eliciting opinion. Page 286.

Motion moved by—that the Bengal State Aid to Industries (Amendment) Bill, 1940, be referred to a Select Committee. Pages 282-283.

Motion moved by—that the Bengal Primary Education (Amendment) Bill, 1940, be referred to a Select Committee. Pages 284-285.

Motion moved by—that the Bengal Public Gambling (Amendment) Bill, 1940, be taken into consideration. Page 266.

Motion moved by— that the Bengal Places of Public Amusement (Amendment) Bill, 1940, be taken into consideration. Pages 262-263.

Ahmed, Mr. Nur—*contd.*

Motion moved by—that the Bengal Court of Wards (Amendment) Bill, 1940, be taken into consideration. Pages 263-264.

Motion moved by—that the Bengal Land Revenue Sales (Amendment) Bill, 1940, be taken into consideration. Pages 251-252.

Question by—regarding establishment of a Maternity and Child Welfare Centre at Chittagong. Pages 129-130.

Question by—regarding recommendations made by Mr. Stuart in his Khas Mahal Administration Report. Pages 128-129.

Question by—regarding depredations by wild animals of the Chittagong hills. Page 59.

Question by—regarding auction sale of petty estates and khas mahal jotes. Pages 3-4.

Question by—regarding increase of landless cultivators. Pages 1-2.

Question by—regarding increase in the number of sales of occupancy holdings. Page 199.

Question by—regarding scheme for the promotion of communal harmony. Pages 437-438.

Question by—regarding agreement between Government of Bengal and the Indian Jute Mills Association. Pages 466-469

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Sinha, Raja Bahadur Bhupendra Narayan of Nashipur—

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Amendments moved by—to the schedule to the Bengal Finance (Sales Tax) Bill, 1941. Page 610.

Leave asked by—to introduce the Bengal Hindu Religious Endowment Bill, 1941. Pages 570-571.

Observations made by—asking for 7 days' time for consideration of the clauses of the Bengal Agricultural Debtors (Second Amendment) Bill, 1940. Page 723.

Point of information raised by—regarding communication from Government regarding change of programme of business. Page 103.

Point of order raised by—as to whether the Third Reading of a Bill may be taken up on the same day that the consideration of the amendments to the clauses of the Bill is finished. Page 348.

Resolution moved by—that a committee be appointed to draft a Bill for the better governance of Hindu public religious funds. Pages 75-78, 80-81.

Speech by—on the supplementary estimate of expenditure regarding contribution to the Calcutta Mayor's Fund. Pages 431-432.

Speech by—on the Third Reading of the Bengal Motor Spirit Sales Taxation Bill, 1941. Page 349.

Sinha, Raja Bahadur Bhupendra Narayan of Nashipur—*concld.*

Speech by—on the clauses of the Bengal Local Self-Government (Amendment) Bill, 1941. Pages 686-687, 701.

Speech by—on the special motion regarding felicitations on Indian soldiers' gallantry in capturing Karen and Harrar, moved by the Hon'ble Sir B. P. Singh Roy. Page 677.

Speech by—on the Third Reading of the Bengal Finance (Sales Tax) Bill, 1941. Pages 629-631.

Speech by—on amendments to the motion for consideration of the Bengal Agricultural Debtors (Second Amendment) Bill, 1940. Pages 722-723.

Speech by—on the Third Reading of the Bengal Local Self-Government (Amendment) Bill, 1941. Pages 767-768.

Speech by—replying to the debate on his resolution to appoint a committee for drafting a Bill for better governance of Hindu religious funds. Pages 80-81.

Speech by—on the resolution of Mr. Ranajit Pal Chowdhury regarding Nabadwip Municipality. Pages 99-100.

Speech by—on the general discussion of the Budget. Pages 181-185.

Singh Roy, The Hon'ble Sir Bijoy Prasad—

Amendment moved by—that Khan Bahadur Saiyed Muazzamuddin Hosain's Bengal Non-Agricultural Tenancy Bill, 1940, be re-circulated for eliciting opinion. Pages 569-570.

Amendment moved by—for circulation of Mr. Nur Ahmed's Bengal Primary Education (Amendment) Bill, 1940. Page 285.

Singh Roy, The Hon'ble Sir Bijoy Prasad—*contd.*

Amendment moved by—asking for extension of the date in the motion for circulation of Mr. Humayun Kabir's Bengal Domestic Servants Relief Bill, 1940. Page 286.

Amendment moved by—for circulation of Mr. Nur Ahmed's Bengal State Aid to Industries (Amendment) Bill, 1940. Page 284.

Amendment moved by—for re-circulation of Mr. Humayun Kabir's Bengal Local Self-Government (Amendment) Bill, 1937. Pages 280-281.

Amendment moved by—for re-circulation of Mr. Nur Ahmed's Eastern Bengal and Assam Disorderly House (Amendment) Bill, 1940. Page 274.

Amendment moved by—for circulation of Mr. Nur Ahmed's Bengal Municipal (Amendment) Bill, 1940. Page 271.

Amendment moved by—for circulation of the Bengal Bus Drivers and Conductors Bill, 1940, of Mr. Humayun Kabir. Page 269.

Amendment moved by—for circulation of the Bengal Public Gambling (Amendment) Bill, 1940, of Mr. Nur Ahmed. Page 267.

Amendment moved by—for circulation of the Bengal Court of Wards (Amendment) Bill, 1940, of Mr. Nur Ahmed. Page 264.

Amendment moved by—for circulation of the Bengal Places of Public Amusement (Amendment) Bill, 1940, of Mr. Nur Ahmed. Page 263.

Amendment moved by—for circulation of the Bengal Good Conduct Prisoners Probational and Temporary Release Bill, 1940, of Mr. Nur Ahmed. Page 262.

Amendment moved by—for circulation of the Bengal Wakf (Amendment) Bill, 1940, of Mr. Nur Ahmed. Page 261.

Singh Roy, The Hon'ble Sir Bijoy Prasad—*contd.*

Amendment moved by—for circulation of the Agriculturists Loans (Bengal Amendment) Bill, 1940, of Mr. Nur Ahmed. Page 258.

Amendment moved by—for circulation of the Bengal Urban Poor Relief Bill, 1940, of Khan Bahadur Saiyed Muazzamuddin Hosain. Page 260.

Amendment moved by—for circulation of the Bengal Estates Petition (Amendment) Bill, 1940, of Rai Bahadur Brojendra Mohan Maitra. Pages 255-256.

Amendments moved by—to the clauses of the Bengal Land Revenue Sales (Amendment) Bill, 1940. Page 253.

Amendment moved by—that Khan Bahadur Saiyed Muazzamuddin Hosain's Bengal Pasture Bill, 1941, be circulated for eliciting opinion. Pages 567-568.

Motion moved by—that the Bengal Local Self-Government (Amendment) Bill, 1941, be taken into consideration. Page 410.

Observations by—in connection with the difficulty arising out of the order of prorogation passed by His Excellency the Governor although the business of the Home remained unfinished. Pages 680-681.

Observations made by—regarding procedure to be followed in giving notice of amendments, time to be allowed for taking up the consideration motion, etc., in respect of the Bengal Local Self-Government (Amendment) Bill, 1941. Pages 361, 364.

Observations by—that the members are not keen on discussing the report of the Floud Commission. Page

Observations by—regarding the date to be fixed for discussion of Mr. Sachindra Narayan Sanyal's adjournment motion regarding Government order prohibiting publication of all matters relating to communal disturbance unless passed by the Press Adviser. Page 502.

Singh Roy, The Hon'ble Sir Bijoy Prasad— *contd.*

Permission sought by—to reply to a question on behalf of the Hon'ble Chief Minister. Pages 319-320.

Reference made by—to the death of Mr. Surendra Mohan Maitra, a sitting member of the Bengal Legislative Assembly. Page 35.

Reply by—to the debate on his consideration motion. Page 417.

Reply by—to Mr. Kamini Kumar Dutta's adjournment motion regarding the riot and looting of the houses of Hindu residents in the district of Dacca. Pages 802-806.

Reply by—to Mr. Nur Ahmed's motion for an Address being presented to His Excellency the Governor of Bengal requesting him to make a strong representation to the proper authorities to revise and reduce the scales of pay for the All-India services. Pages 551-552.

Reply by—to the debate on the Third Reading on the Bengal Local Self-Government (Amendment) Bill, 1941. Pages 778-780.

Request by—for extension of time for submission of Select Committee reports on two non-official Bills. Page 74.

Request by—for extension of time to the Select Committees on (1) Mr. Nur Ahmed's Bengal Public Demands Recovery (Amendment) Bill and (2) Khan Bahadur Saiyed Muazzamuddin Hosain's Bengal Land Revenue Sales (Amendment) Bill, in order to enable them to present their reports by the 1st of April, 1941. Page 354.

Special motion moved by—regarding felicitations on Indian soldiers' gallantry in capturing Karen and Harrar. Pages 674-675.

Speeches by—on amendments to the clauses of the Bengal Local Self-Government (Amendment) Bill, 1941. Pages 692, 696, 697, 698, 699, 700.

Singh Roy, The Hon'ble Sir Bijoy Prasad— *concld.*

Speech by—on Mr. Sachindra Narayan Sanyal's adjournment motion about Government ban on the publication of Dacca riot news. Pages 599-602.

Speech by—in reply to the resolution of Raja Bhupendra Narayan Sinha Bahadur of Nashipur that a Committee be appointed to draft a Bill for better governance of Hindu public religious funds. Pages 78-79.

Speeches by—on amendments to the clauses of the Bengal Local Self-Government (Amendment) Bill, 1941. Pages 649, 651, 652, 653, 655-656, 659, 660, 661, 665-666, 670, 671.

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Motion moved by—that the Bengal Motor Spirit Sales Taxation Bill, 1941, as settled in Council, be passed. Pages 348, 353-354.

Motion moved by—that the Bengal Finance (Sales Tax) Bill, 1941, as passed by the Assembly, be taken into consideration. Pages 365-372, 374, 379-383.

Motion moved by—that the Bengal Motor Spirit Sales Taxation Bill, 1941, be taken into consideration. Pages 298-299.

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